

MONTANA LEGISLATIVE HISTORY

Chapter 632 19 87

Bill H 752 S _____ Original bill & history ☒ c

H. Committee on Human Services

Hearing Date(s) 2-17 _____ c

_____ c

_____ c

_____ c

Date Out 2-17 _____ c

S. Committee on Public Health, Welfare

Hearing Date(s) 3-4 _____ c

3-9 _____ c

_____ c

_____ c

Y. AFF as 3-7

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

Free Conference Committee 4-9-1987:

The Law Library has no minutes
for this committee. Please check
with the M.T. Historical Society.

HOUSE FINAL STATUS

(B) THE DESIGNATION BY THE COMMISSION OF
EMERGENCY PLANNING DISTRICTS THAT TOGETHER
ENCOMPASS THE ENTIRE STATE; AND

(C) THE APPOINTMENT OF MEMBERS TO LOCAL
PLANNING COMMITTEES IN EACH DISTRICT.

HB 751 INTRODUCED BY WINSLOW
TAX EXEMPTION TO PREVENT DISMANTLING OF NONPRODUCING
MANUFACTURING IMPROVEMENTS AND NONPRODUCING
RAILROAD OPERATING IMPROVEMENTS

2/14	INTRODUCED		
2/14	REFERRED TO TAXATION		
2/14	FISCAL NOTE REQUESTED		
2/20	FISCAL NOTE RECEIVED		
3/06	HEARING		
3/13	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/16	2ND READING PASSED AS AMENDED	95	0
3/18	3RD READING PASSED	93	1
3/18	RECONSIDERED ACTION ON 3RD READING	83	5
3/18	REREFERRED TO TAXATION		
3/19	COMMITTEE REPORT--BILL PASSED		
3/20	2ND READING PASSED	96	2
3/21	3RD READING PASSED	91	5

	TRANSMITTED TO SENATE		
3/23	REFERRED TO TAXATION		
3/30	HEARING		
3/31	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
4/02	2ND READING CONCURRED	50	0
4/03	3RD READING CONCURRED	49	0

	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	92	1
4/09	3RD READING AMENDMENTS CONCURRED	95	2
4/14	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		

4/15	TRANSMITTED TO GOVERNOR		
4/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 560 EFFECTIVE DATE:	4/20/87	

HB 752 INTRODUCED BY WINSLOW
UNIFORM HEALTH CARE INFORMATION ACT

2/14	INTRODUCED		
2/14	REFERRED TO HUMAN SERVICES & AGING		
2/17	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED		
2/20	2ND READING PASSED	91	0
2/21	3RD READING PASSED	92	0

	TRANSMITTED TO SENATE		
2/23	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/04	HEARING		
3/11	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/18	2ND READING CONCURRED	50	0
3/20	3RD READING CONCURRED	49	0

	RETURNED TO HOUSE WITH AMENDMENTS		
3/25	2ND READING AMENDMENTS NOT CONCURRED	99	0
3/25	CONFERENCE COMMITTEE APPOINTED		
4/09	CONFERENCE COMMITTEE DISSOLVED		

HOUSE FINAL STATUS

	SENATE		
3/26	CONFERENCE COMMITTEE APPOINTED		
4/08	CONFERENCE COMMITTEE DISSOLVED	50	0
	HOUSE		
4/09	FREE CONFERENCE COMMITTEE APPOINTED		
4/15	FREE CONFERENCE COMMITTEE REPORT		
4/20	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	97	0
4/21	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	98	0
	SENATE		
4/08	FREE CONFERENCE COMMITTEE APPOINTED		
4/15	FREE CONFERENCE COMMITTEE REPORT		
4/16	2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	50	0
4/17	3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED	49	0
4/22	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 632 EFFECTIVE DATE: 10/01/87		
HB 753	INTRODUCED BY RAMIREZ, ET AL. APPOINTMENT OF PUBLIC SERVICE COMMISSIONERS		
2/14	INTRODUCED		
2/14	REFERRED TO STATE ADMINISTRATION		
2/18	HEARING		
2/19	COMMITTEE REPORT--BILL NOT PASSED		
2/20	ADVERSE COMMITTEE REPORT ADOPTED	70	20
HB 754	INTRODUCED BY BRADLEY, ET AL. PROVIDES APPOINTMENT PROCESS FOR WATER JUDGES AND ESTABLISHES PRIORITY BASINS BY REQUEST OF WATER POLICY COMMITTEE		
2/14	INTRODUCED		
2/14	REFERRED TO JUDICIARY		
2/14	FISCAL NOTE REQUESTED		
2/19	HEARING		
2/20	FISCAL NOTE RECEIVED		
2/23	COMMITTEE REPORT--BILL PASSED		
2/25	REREFERRED TO RULES		
3/26	HEARING		
3/27	COMMITTEE REPORT--BILL PASSED AS AMENDED	50	34
3/31	2ND READING PASSED	55	40
4/01	3RD READING PASSED		
	TRANSMITTED TO SENATE		
4/03	REFERRED TO JUDICIARY		
4/08	HEARING		
4/10	COMMITTEE REPORT--BILL CONCURRED AS AMENDED	50	0
4/14	2ND READING CONCURRED	35	15
4/14	3RD READING CONCURRED		
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	85	12
4/17	TAKEN FROM 3RD READING AND PLACED ON 2ND READING		

STATUS SHEET

50th LEGISLATIVE SESSION

HUMAN SERVICES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
686	2/10/87	2/14/87			2/14/87						
690	2/10/87	2/14/87				2/14/87					
695	2/10/87	2/14/87					2/14/87				
711	2/11/87	2/14/87			2/14/87						
712	2/11/87	2/14/87					2/14/87				
713	2/11/87	2/14/87			2/14/87						
749	2/14/87	2/17/87		2/17/87							
752	2/14/87	2/17/87		2/17/87							
780	2/16/87	2/17/87		2/17/87							
788	2/17/87	2/17/87		2/17/87							
825	2/19/87	2/19/87				2/19/87					
886	3/17/87	3/24/87				3/24/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

1 House BILL NO. 752
2 INTRODUCED BY Wendell
3

4 A BILL FOR AN ACT ENTITLED: "THE UNIFORM HEALTH CARE
5 INFORMATION ACT; AMENDING SECTIONS 50-5-106, 50-15-704, AND
6 53-24-306, MCA; AND REPEALING SECTIONS 50-16-301 THROUGH
7 50-16-305 AND 50-16-311 THROUGH 50-16-314, MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [Sections 1
11 through 25] may be cited as the "Uniform Health Care
12 Information Act".

13 NEW SECTION. Section 2. Legislative findings. The
14 legislature finds that:

15 (1) health care information is personal and sensitive
16 information that if improperly used or released may do
17 significant harm to a patient's interests in privacy and
18 health care or other interests;

19 (2) patients need access to their own health care
20 information as a matter of fairness, to enable them to make
21 informed decisions about their health care and to correct
22 inaccurate or incomplete information about themselves;

23 (3) in order to retain the full trust and confidence
24 of patients, health care providers have an interest in
25 assuring that health care information is not improperly

1 disclosed and in having clear and certain rules for the
2 disclosure of health care information;

3 (4) persons other than health care providers obtain,
4 use, and disclose health record information in many
5 different contexts and for many different purposes. It is
6 the public policy of this state that a patient's interest in
7 the proper use and disclosure of his health care information
8 survives even when the information is held by persons other
9 than health care providers.

10 (5) the movement of patients and their health care
11 information across state lines, access to and exchange of
12 health care information from automated data banks, and the
13 emergence of multistate health care providers creates a
14 compelling need for uniform law, rules, and procedures
15 governing the use and disclosure of health care information.

16 NEW SECTION. Section 3. Uniformity of application and
17 construction. [Sections 1 through 25] must be applied and
18 construed to effectuate their general purpose to make
19 uniform the laws with respect to the treatment of health
20 care information among states enacting them.

21 NEW SECTION. Section 4. Definitions. As used in
22 [sections 1 through 25], unless the context indicates
23 otherwise, the following definitions apply:

24 (1) "Audit" means an assessment, evaluation,
25 determination, or investigation of a health care provider by

1 a person not employed by or affiliated with the provider, to
2 determine compliance with:

3 (a) statutory, regulatory, fiscal, medical, or
4 scientific standards;

5 (b) a private or public program of payments to a
6 health care provider; or

7 (c) requirements for licensing, accreditation, or
8 certification.

9 (2) "Directory information" means information
10 disclosing the presence and the general health condition of
11 a patient who is an inpatient in a health care facility or
12 who is receiving emergency health care in a health care
13 facility.

14 (3) "General health condition" means the patient's
15 health status described in terms of critical, poor, fair,
16 good, excellent, or terms denoting similar conditions.

17 (4) "Health care" means any care, service, or
18 procedure provided by a health care provider:

19 (a) to diagnose, treat, or maintain a patient's
20 physical or mental condition; or

21 (b) that affects the structure or any function of the
22 human body.

23 (5) "Health care facility" means a hospital, clinic,
24 nursing home, laboratory, office, or similar place where a
25 health care provider provides health care to patients.

1 (6) "Health care information" means any information,
2 whether oral or recorded in any form or medium, that
3 identifies or can readily be associated with the identity of
4 a patient and relates to the patient's health care. The term
5 includes any record of disclosures of health care
6 information.

7 (7) "Health care provider" means a person who is
8 licensed, certified, or otherwise authorized by the laws of
9 this state to provide health care in the ordinary course of
10 business or practice of a profession. The term does not
11 include a person who provides health care solely through the
12 sale or dispensing of drugs or medical devices.

13 (8) "Institutional review board" means a board,
14 committee, or other group formally designated by an
15 institution or authorized under federal or state law to
16 review, approve the initiation of, or conduct periodic
17 review of research programs to assure the protection of the
18 rights and welfare of human research subjects.

19 (9) "Maintain", as related to health care information,
20 means to hold, possess, preserve, retain, store, or control
21 that information.

22 (10) "Patient" means an individual who receives or has
23 received health care. The term includes a deceased
24 individual who has received health care.

25 (11) "Person" means an individual, corporation,

1 business trust, estate, trust, partnership, association,
2 joint venture, government, governmental subdivision or
3 agency, or other legal or commercial entity.

4 NEW SECTION. Section 5. Disclosure by health care
5 provider. (1) Except as authorized in [sections 9 and 10] or
6 as otherwise specifically provided by law or the Montana
7 Rules of Civil Procedure, a health care provider, an
8 individual who assists a health care provider in the
9 delivery of health care, or an agent or employee of a health
10 care provider may not disclose health care information about
11 a patient to any other person without the patient's written
12 authorization. A disclosure made under a patient's written
13 authorization must conform to the authorization.

14 (2) A health care provider shall maintain, in
15 conjunction with a patient's recorded health care
16 information, a record of each person who has received or
17 examined, in whole or in part, the recorded health care
18 information during the preceding 3 years, except for a
19 person who has examined the recorded health care information
20 under [section 9(1) or (2)]. The record of disclosure must
21 include the name, address, and institutional affiliation, if
22 any, of each person receiving or examining the recorded
23 health care information, the date of the receipt or
24 examination, and to the extent practicable a description of
25 the information disclosed.

1 NEW SECTION. Section 6. Patient authorization to
2 health care provider for disclosure. (1) A patient may
3 authorize a health care provider to disclose the patient's
4 health care information. A health care provider shall honor
5 an authorization and, if requested, provide a copy of the
6 recorded health care information unless the health care
7 provider denies the patient access to health care
8 information under [section 14].

9 (2) A health care provider may charge a reasonable
10 fee, not to exceed his actual cost for providing the health
11 care information, and is not required to honor an
12 authorization until the fee is paid.

13 (3) To be valid, a disclosure authorization to a
14 health care provider must:

- 15 (a) be in writing, dated, and signed by the patient;
- 16 (b) identify the nature of the information to be
17 disclosed; and
- 18 (c) identify the person to whom the information is to
19 be disclosed.

20 (4) Except as provided by [sections 1 through 25], the
21 signing of an authorization by a patient is not a waiver of
22 any rights a patient has under other statutes, the Montana
23 Rules of Evidence, or common law.

24 NEW SECTION. Section 7. Patient authorization --
25 retention -- effective period. (1) A health care provider

1 shall retain each authorization or revocation in conjunction
2 with any health care information from which disclosures are
3 made.

4 (2) Except for authorizations to provide information
5 to third-party health care payors, an authorization may not
6 permit the release of health care information relating to
7 health care that the patient receives more than 6 months
8 after the authorization was signed.

9 (3) An authorization in effect on [the effective date
10 of sections 1 through 25] remains valid for 30 months after
11 [the effective date of sections 1 through 25] unless an
12 earlier date is specified or it is revoked under [section
13 8]. Health care information disclosed under such an
14 authorization is otherwise subject to [sections 1 through
15 25]. An authorization written after [the effective date of
16 sections 1 through 25] becomes invalid after the expiration
17 date contained in the authorization, which may not exceed 30
18 months. If the authorization does not contain an expiration
19 date, it expires 6 months after it is signed.

20 NEW SECTION. Section 8. Patient's revocation of
21 authorization for disclosure. A patient may revoke a
22 disclosure authorization to a health care provider at any
23 time unless disclosure is required to effectuate payments
24 for health care that has been provided or other substantial
25 action has been taken in reliance on the authorization. A

1 patient may not maintain an action against the health care
2 provider for disclosures made in good-faith reliance on an
3 authorization if the health care provider had no notice of
4 the revocation of the authorization.

5 NEW SECTION. Section 9. Disclosure without patient's
6 authorization based on need to know. A health care provider
7 may disclose health care information about a patient without
8 the patient's authorization, to the extent a recipient needs
9 to know the information, if the disclosure is:

10 (1) to a person who is providing health care to the
11 patient;

12 (2) to any other person who requires health care
13 information for health care education; to provide planning,
14 quality assurance, peer review, or administrative, legal,
15 financial, or actuarial services to the health care
16 provider; or for assisting the health care provider in the
17 delivery of health care and if the health care provider
18 reasonably believes that the person will:

19 (a) not use or disclose the health care information
20 for any other purpose; and

21 (b) take appropriate steps to protect the health care
22 information;

23 (3) to any other health care provider who has
24 previously provided health care to the patient, to the
25 extent necessary to provide health care to the patient,

1 unless the patient has instructed the health care provider
2 not to make the disclosure;

3 (4) to any person if the health care provider
4 reasonably believes that disclosure will avoid or minimize
5 an imminent danger to the health or safety of the patient or
6 any other individual;

7 (5) to immediate family members of the patient or any
8 other individual with whom the patient is known to have a
9 close personal relationship, if made in accordance with the
10 laws of the state and good medical or other professional
11 practice, unless the patient has instructed the health care
12 provider not to make the disclosure;

13 (6) to a health care provider who is the successor in
14 interest to the health care provider maintaining the health
15 care information;

16 (7) for use in a research project that an
17 institutional review board has determined:

18 (a) is of sufficient importance to outweigh the
19 intrusion into the privacy of the patient that would result
20 from the disclosure;

21 (b) is impracticable without the use or disclosure of
22 the health care information in individually identifiable
23 form;

24 (c) contains reasonable safeguards to protect the
25 information from redisclosure;

1 (d) contains reasonable safeguards to protect against
2 directly or indirectly identifying any patient in any report
3 of the research project; and

4 (e) contains procedures to remove or destroy at the
5 earliest opportunity, consistent with the purposes of the
6 project, information that would enable the patient to be
7 identified, unless an institutional review board authorizes
8 retention of identifying information for purposes of another
9 research project;

10 (8) to a person who obtains information for purposes
11 of an audit, if that person agrees in writing to:

12 (a) remove or destroy, at the earliest opportunity
13 consistent with the purpose of the audit, information that
14 would enable the patient to be identified; and

15 (b) not disclose the information further, except to
16 accomplish the audit or to report unlawful or improper
17 conduct involving fraud in payment for health care by a
18 health care provider or patient or other unlawful conduct by
19 a health care provider; and

20 (9) to an official of a penal or other custodial
21 institution in which the patient is detained.

22 NEW SECTION. Section 10. Disclosure without patient's
23 authorization -- other bases. A health care provider may
24 disclose health care information about a patient without the
25 patient's authorization if the disclosure is:

(1) directory information, unless the patient has instructed the health care provider not to make the disclosure;

(2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;

(3) to federal, state, or local law enforcement authorities to the extent required by law; and

(4) pursuant to compulsory process in accordance with [sections 11 and 12].

NEW SECTION. Section 11. When health care information available by compulsory process. Health care information may not be disclosed by a health care provider pursuant to compulsory legal process or discovery in any judicial, legislative, or administrative proceeding unless:

(1) the patient has consented in writing to the release of the health care information in response to compulsory process or a discovery request;

(2) the patient has waived the right to claim confidentiality for the health care information sought;

(3) the patient is a party to the proceeding and has placed his physical or mental condition in issue;

(4) the patient's physical or mental condition is relevant to the execution or witnessing of a will;

(5) the physical or mental condition of a deceased patient is placed in issue by any person claiming or defending through or as a beneficiary of the patient;

(6) a patient's health care information is to be used in the patient's commitment proceeding;

(7) the health care information is for use in any law enforcement proceeding or investigation in which a health care provider is the subject or a party, except that health care information so obtained may not be used in any proceeding against the patient unless the matter relates to payment for his health care or unless authorized under subsection (9);

(8) the health care information is relevant to a proceeding brought under [sections 23 through 25]; or

(9) a court has determined that particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest.

NEW SECTION. Section 12. Method of compulsory process. (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding or investigation under subsection (9) of [section

11], the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or his authorized representative, identifying at least one subsection of [section 11] under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding under subsection (9) of [section 11], that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of [section 11] identified in the certification provides an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a permanent part of the patient's health care information.

(3) Production of health care information under

[section 11] and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure.

NEW SECTION. Section 13. Requirements and procedures for patient's examination and copying. (1) Upon receipt of a written request from a patient to examine or copy all or part of his recorded health care information, a health care provider, as promptly as required under the circumstances but no later than 10 days after receiving the request, shall:

(a) make the information available to the patient for examination during regular business hours and provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) if the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than 21 days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise

1 disposed of; or

2 (e) deny the request in whole or in part under
3 [section 14] and inform the patient.

4 (2) Upon request, the health care provider shall
5 provide an explanation of any code or abbreviation used in
6 the health care information. If a record of the particular
7 health care information requested is not maintained by the
8 health care provider in the requested form, he is not
9 required to create a new record or reformulate an existing
10 record to make the information available in the requested
11 form. The health care provider may charge a reasonable fee,
12 not to exceed the health care provider's actual cost, for
13 providing the health care information and is not required to
14 permit examination or copying until the fee is paid.

15 NEW SECTION. Section 14. Denial of examination and
16 copying. (1) A health care provider may deny access to
17 health care information by a patient if the health care
18 provider reasonably concludes that:

19 (a) knowledge of the health care information would be
20 injurious to the health of the patient;

21 (b) knowledge of the health care information could
22 reasonably be expected to lead to the patient's
23 identification of an individual who provided the information
24 in confidence and under circumstances in which
25 confidentiality was appropriate;

1 (c) knowledge of the health care information could
2 reasonably be expected to cause danger to the life or safety
3 of any individual;

4 (d) the health care information was compiled and is
5 used solely for litigation, quality assurance, peer review,
6 or administrative purposes; or

7 (e) access to the health care information is otherwise
8 prohibited by law.

9 (2) If a health care provider denies a request for
10 examination and copying under this section, the provider, to
11 the extent possible, shall segregate health care information
12 for which access has been denied under subsection (1) from
13 information for which access cannot be denied and permit the
14 patient to examine or copy the disclosable information.

15 (3) If a health care provider denies a patient's
16 request for examination and copying, in whole or in part,
17 under subsection (1)(a) or (1)(c), he shall permit
18 examination and copying of the record by another health care
19 provider, selected by the patient, who is licensed,
20 certified, or otherwise authorized under the laws of this
21 state to treat the patient for the same condition as the
22 health care provider denying the request. The health care
23 provider denying the request shall inform the patient of the
24 patient's right to select another health care provider under
25 this subsection.

1 NEW SECTION. Section 15. Request for correction or
2 amendment. (1) For purposes of accuracy or completeness, a
3 patient may request in writing that a health care provider
4 correct or amend its record of the patient's health care
5 information to which he has access under [section 13].

6 (2) As promptly as required under the circumstances
7 but no later than 10 days after receiving a request from a
8 patient to correct or amend its record of the patient's
9 health care information, the health care provider shall:

10 (a) make the requested correction or amendment and
11 inform the patient of the action and of the patient's right
12 to have the correction or amendment sent to previous
13 recipients of the health care information in question;

14 (b) inform the patient if the record no longer exists
15 or cannot be found;

16 (c) if the health care provider does not maintain the
17 record, inform the patient and provide him with the name and
18 address, if known, of the person who maintains the record;

19 (d) if the record is in use or unusual circumstances
20 have delayed the handling of the correction or amendment
21 request, inform the patient and specify in writing the
22 earliest date, not later than 21 days after receiving the
23 request, when the correction or amendment will be made or
24 when the request will otherwise be disposed of; or

25 (e) inform the patient in writing of the provider's

1 refusal to correct or amend the record as requested, the
2 reason for the refusal, and the patient's right to add a
3 statement of disagreement and to have that statement sent to
4 previous recipients of the disputed health care information.

5 NEW SECTION. Section 16. Procedure for adding
6 correction, amendment, or statement of disagreement. (1) In
7 making a correction or amendment, the health care provider
8 shall:

9 (a) add the amending information as a part of the
10 health record; and

11 (b) mark the challenged entries as corrected or
12 amended entries and indicate the place in the record where
13 the corrected or amended information is located, in a manner
14 practicable under the circumstances.

15 (2) If the health care provider maintaining the record
16 of the patient's health care information refuses to make the
17 patient's proposed correction or amendment, the provider
18 shall:

19 (a) permit the patient to file as a part of the record
20 of his health care information a concise statement of the
21 correction or amendment requested and the reasons therefor;
22 and

23 (b) mark the challenged entry to indicate that the
24 patient claims the entry is inaccurate or incomplete and
25 indicate the place in the record where the statement of

disagreement is located, in a manner practicable under the circumstances.

NEW SECTION. Section 17. Dissemination of corrected or amended information or statement of disagreement. (1) A health care provider, upon request of a patient, shall take reasonable steps to provide copies of corrected or amended information or of a statement of disagreement to all persons designated by the patient and identified in the health care information as having examined or received copies of the information sought to be corrected or amended.

(2) A health care provider may charge the patient a reasonable fee, not exceeding the provider's actual cost, for distributing corrected or amended information or the statement of disagreement, unless the provider's error necessitated the correction or amendment.

NEW SECTION. Section 18. Content and dissemination of notice. (1) A health care provider who provides health care at a health care facility that the provider operates and who maintains a record of a patient's health care information shall create a notice of information practices, in substantially the following form:

NOTICE

"We keep a record of the health care services we provide for you. You may ask us to see and copy that record. You may also ask us to correct that record. We will not

disclose your record to others unless you direct us to do so or unless the law authorizes or compels us to do so. You may see your record or get more information about it at _____."

(2) The health care provider shall post a copy of the notice of information practices in a conspicuous place in the health care facility and upon request provide patients or prospective patients with a copy of the notice.

NEW SECTION. Section 19. Health care representatives.

(1) A person authorized to consent to health care for another may exercise the rights of that person under [sections 1 through 25] to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized under 41-1-402 to consent to health care without parental consent, only the minor may exclusively exercise the rights of a patient under [sections 1 through 25] as to information pertaining to health care to which the minor lawfully consented.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

NEW SECTION. Section 20. Representative of deceased patient. A personal representative of a deceased patient may exercise all of the deceased patient's rights under [sections 1 through 25]. If there is no personal

1 representative or upon discharge of the personal
2 representative, a deceased patient's rights under [sections
3 1 through 25] may be exercised by persons who are authorized
4 by law to act for him.

5 NEW SECTION. Section 21. Duty to adopt security
6 safeguards. A health care provider shall effect reasonable
7 safeguards for the security of all health care information
8 it maintains.

9 NEW SECTION. Section 22. Retention of record. A
10 health care provider shall maintain a record of existing
11 health care information for at least 1 year following
12 receipt of an authorization to disclose that health care
13 information under [section 6] and during the pendency of a
14 request for examination and copying under [section 13] or a
15 request for correction or amendment under [section 15].

16 NEW SECTION. Section 23. Criminal penalty. (1) A
17 person who purposely discloses health care information in
18 violation of [sections 1 through 25] and who knew or should
19 have known that disclosure is prohibited is guilty of a
20 misdemeanor and upon conviction is punishable by a fine not
21 exceeding \$10,000 or imprisonment for a period not exceeding
22 1 year, or both.

23 (2) A person who by means of bribery, theft, or
24 misrepresentation of identity, purpose of use, or
25 entitlement to the information examines or obtains, in

1 violation of [sections 1 through 25], health care
2 information maintained by a health care provider is guilty
3 of a misdemeanor and upon conviction is punishable by a fine
4 not exceeding \$10,000 or imprisonment for a period not
5 exceeding 1 year, or both.

6 (3) A person who, knowing that a certification under
7 [section 12(2)] or a disclosure authorization under
8 [sections 6 and 7] is false, purposely presents the
9 certification or disclosure authorization to a health care
10 provider is guilty of a misdemeanor and upon conviction is
11 punishable by a fine not exceeding \$10,000 or imprisonment
12 for a period not exceeding 1 year, or both.

13 NEW SECTION. Section 24. Civil enforcement. The
14 attorney general or appropriate county attorney may maintain
15 a civil action to enforce [sections 1 through 25]. The court
16 may order any relief authorized by [section 25].

17 NEW SECTION. Section 25. Civil remedies. (1) A person
18 aggrieved by a violation of [sections 1 through 25] may
19 maintain an action for relief as provided in this section.

20 (2) The court may order the health care provider or
21 other person to comply with [sections 1 through 25] and may
22 order any other appropriate relief.

23 (3) A health care provider who relies in good faith
24 upon a certification, pursuant to [section 12(2)], is not
25 liable for disclosures made in reliance on that

1 certification.

2 (4) In an action by a patient alleging that health
3 care information was improperly withheld under [sections 13
4 and 14], the burden of proof is on the health care provider
5 to establish that the information was properly withheld.

6 (5) If the court determines that there is a violation
7 of [sections 1 through 25], the aggrieved person is entitled
8 to recover damages for pecuniary losses sustained as a
9 result of the violation and, in addition, if the violation
10 results from willful or grossly negligent conduct, the
11 aggrieved person may recover not in excess of \$5,000,
12 exclusive of any pecuniary loss.

13 (6) If a plaintiff prevails, the court may assess
14 reasonable attorney fees and all other expenses reasonably
15 incurred in the litigation.

16 (7) An action under [sections 1 through 25] is barred
17 unless the action is commenced within 3 years after the
18 cause of action accrues.

19 Section 26. Section 50-5-106, MCA, is amended to read:

20 50-5-106. Records and reports required of health care
21 facilities -- confidentiality. Health care facilities shall
22 keep records and make reports as required by the department.
23 Before February 1 of each year, every licensed health care
24 facility shall submit an annual report for the preceding
25 calendar year to the department. The report shall be on

1 forms and contain information specified by the department.
2 Information received by the department or board through
3 reports, inspections, or provisions of parts 1 and 2 may not
4 be disclosed in a way which would identify patients. A
5 department employee who discloses information which would
6 identify a patient shall be dismissed from employment and
7 subject to the provisions of 45-7-401 and [section 23],
8 unless the disclosure was authorized in writing by the
9 patient, his guardian, or his agent in accordance with
10 [sections 1 through 25]. Information and statistical reports
11 from health care facilities which are considered necessary
12 by the department for health planning and resource
13 development activities will be made available to the public
14 and the health planning agencies within the state."

15 Section 27. Section 50-15-704, MCA, is amended to
16 read:

17 "50-15-704. Confidentiality. Information received by
18 the department pursuant to this part may not be released
19 unless:

20 (1) it is in statistical, nonidentifiable form;

21 (2) the provisions of ~~50-16-311~~ [sections 1 through
22 25] are satisfied;

23 (3) the release or transfer is to a person or
24 organization that is qualified to perform data processing or
25 data analysis and that has safeguards against unauthorized

1 disclosure of that information; or

2 (4) the release or transfer is to a central tumor
3 registry of another state and is of information concerning a
4 person who is residing in that state."

5 Section 28. Section 53-24-306, MCA, is amended to
6 read:

7 "53-24-306. Records of chemically dependent persons,
8 intoxicated persons, and family members. (1) The
9 registration and other records of treatment facilities shall
10 remain confidential and are privileged to the patient.

11 (2) Notwithstanding subsection (1), the department may
12 make available in accordance with [sections 1 through 25]
13 information from patients' records for purposes of research
14 into the causes and treatment of chemical dependency.
15 Information under this subsection shall not be published in
16 a way that discloses patients' names or other identifying
17 information."

18 NEW SECTION. Section 29. Severability. If a part of
19 this act is invalid, all valid parts that are severable from
20 the invalid part remain in effect. If a part of this act is
21 invalid in one or more of its applications, the part remains
22 in effect in all valid applications that are severable from
23 the invalid applications.

24 NEW SECTION. Section 30. Repealer. Sections 50-16-301
25 through 50-16-305 and 50-16-311 through 50-16-314, MCA, are

1 repealed.

-End-

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Human Services and Aging Committee was called to order by Chairman R. Budd Gould, on February 17, 1987, at 12:30 p.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present except Rep. Cody.

CONSIDERATION OF HOUSE BILL NO. 752:

REP. CAL WINSLOW, House District No. 89, sponsor of the bill, stated the bill is called the Uniform Health Information Act. He said the bill came out of the National Conference of Commissioners of Uniform State Laws. He explained the bill is a repealer of a number of sections that deal with the health care confidentiality act, replacing it with the Uniform Health Care Information Act. He said it deals in a number of areas; 1) to allow disclosure to other persons for providing health care to a patient without the patients authorization to disclosure. 2) the area of who may have access to patient records, 3) if a patient requests information they are to receive it within a certain number of days, 4) it gives the health care facility the right to charge for those records, 5) if a physician puts something damaging in the records it allows the patients to have it taken out of their records, or at least have them file a statement of disagreement, that would continue with their files. He noted the uniform law had been worked on for three years by the American Medical Association, the American Hospital Association and others concerned in the area.

PROPOSERS:

BILL LEARY, representing the Montana Hospital Association. He stated after a quick review of the bill he had no problems with it and encouraged the committee to support the bill.

OPPOSERS: None.

REP. WINSLOW closed by saying he thought it was important that states unify some of their laws, especially in the area where there is so much health care moving from state to state.

QUESTIONS FROM THE COMMITTEE:

In response to a question from REP. KITSELMAN, REP. WINSLOW explained the bill gives the opportunity for an

Human Services And
Aging Committee
February 17, 1987
Page Two

individual to sign a statement that they do not want information released.

REP. SANDS questioned why there is a criminal penalty for purposefully disclosing information whereas there is no penalty provided for someone who refuses to provide information. REP. WINSLOW agreed that the penalty should be there also if the provider does not give the information.

CONSIDERATION OF HOUSE BILL NO. 749:

REP. CAROLYN SQUIRES, House District No. 58, sponsor of the bill, stated the bill is an act requiring the Department of Health and Environmental Sciences to make unannounced inspections to licensed health care facilities.

PROPOSERS:

ELSIE LATHAM, President of the Montana Senior Citizens Association, read her prepared statement in favor of HB # 749. See EXHIBIT # 1.

KAREN RICHEY, West Mont Home Health Care, rose in support of HB # 749. She said she believed that unannounced visits by state licensing agencies would be a method to increase the quality of care that goes on in any health care facility.

DR. JOHN J. DRYNAN, Director of the Department of Health and Environmental Sciences, rose in support of HB # 749. He said that unannounced inspections were done prior to the federal mandate.

BILL LEARY, Montana Hospital Association. He stated that the unannounced inspections conducted by the state department of health over the past 1 and 1/2 years have not been in any way restrictive to the ability of the hospitals to provide care and he would endorse the intent of HB # 749.

ROSE SKOOG, Montana Health Care Association, said this legislation indicates a commitment on the part of the state to conduct unannounced annual inspections.

ALICE CAMPBELL, Missoula. Ms. Campbell stated her mother is in the Hillside Rest Home in Missoula and that she believes the nursing homes are tipped off when an inspection is to be held. She spoke in favor of the bill.

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date FEBRUARY 17, 1987
12:30 P.M.

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	X		
REP. BOB GILBERT, VICE CHAIRMAN	X		
REP. W BROWN	X		
REP DUANE COMPTON	X		
REP. DOROTHY CODY		X	
REP. DICK CORNE'	X		
REP. LARRY GRINDE	X		
REP. STELLA JEAN HANSEN	X		
REP. LES KITSELMAN	X		
REP. LLOYD MC CORMICK	X		
REP. RICHARD NELSON	X		
REP. JOHN PATTERSON	X		
REP. ANGELA RUSSELL	X		
REP. JACK SANDS	X		
REP. BRUCE SIMON	X		
REP. CAROLYN SQUIRES	X		
REP. TONIA BRATFORD	X		
REP. BILL STRIZICH	X		

HUMAN SERVICES AND AGING

BILL NO. HOUSE BILL NO. 752

SPONSOR REP. WINSLOW

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

CS-33

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Human Services and Aging Committee was called to order by Chairman R. Budd Gould, on February 17, 1987, at 7:30 p.m., in Room 312-D of the State Capitol.

ROLL CALL: All members were present except Rep. Cody and Rep. Compton who were absent.

CONSIDERATION OF HOUSE BILL NO 788:

REP. RED MENAHAN, House District No. 67, stated the bill was brought about by the fact that there are only two doctors at Montana State Hospital to practice psychiatry to over 300 patients. They work 6 days a week and are on call on the 7th. He said there is a young doctor in North Dakota who would like to come here but the medical association denies him temporary licensure, and the bill would allow the Board of Medical Examiners to issue a temporary license to qualified physicians employed at the Montana State Hospital or other state institutions. He stated the bill would also save the State of Montana money by allowing it to hire personnel in the \$60-70 thousand dollar range, whereas it had contracted services for three months at the Montana Youth Treatment Center at a charge of \$115-\$120 thousand dollars.

PROPOSERS: None.

OPPOSERS: None.

REP. MENAHAN closed by stating he would have the two doctors who are working under these conditions write to the committee, and he would appreciate a do pass on the bill. CHAIRMAN GOULD noted because of the transmittal deadline, the committee would be taking immediate action on the bills so it would not be necessary for Rep. Menahan to request the letters.

QUESTIONS FROM THE COMMITTEE:

In response to a question from REP. HANSEN, REP. MENAHAN explained that the qualified applicant in the bill could mean medical doctors, but that the State Hospital really needs a psychiatrist.

CONSIDERATION OF HOUSE BILL NO. 780:

REP. BOB GILBERT, House District No. 22, stated he was

Human Services and
Aging Committee
February 17, 1987
Page Three

through a long process they determined he was entitled to work comp benefits. He said it is the only case he was aware of, so the \$122,000 on the handout was paid to one man.

CHAIRMAN GOULD asked for further discussion on REP. STRIZ-ICH'S motion to take HB # 24 off the table. The question was called; the motion FAILED with 7 favorable votes and 9 opposing votes. Roll call # 1.

ACTION ON HOUSE BILL NO. 752:

REP. GILBERT moved DO PASS on HB # 752; the question was called for, the motion CARRIED unanimously.

ACTION ON HOUSE BILL NO. 749:

REP. SQUIRES moved DO PASS on HB # 749; the motion CARRIED unanimously.

ACTION ON HOUSE BILL NO. 675:

REP. RUSSELL moved DO PASS on HB # 675; the Chairman called for discussion on the bill. REP. MC CORMICK made a substitute motion that HB # 675 DO NOT PASS.

A very lengthy discussion was held on reversing the smoking areas to non-smoking areas in public buildings.

REP. KITSELMAN moved to strike section 7, which is the penalty section of the bill, which would leave the language to say "an office and work area in buildings maintained by the state or public subdivision thereof, in which 7 or more employees of the state or political subdivision are employed, the manager or person in charge of the work area shall arrange non-smoking, smoking areas in a convenient area.

REP. SANDS said he thought the most important part of the bill is the part that extends the non-smoking to the work place in public or private places as well.

REP. KITSELMAN then moved to amend section 7, under penalties, back to the original language, which would reinsert the stricken language and strike the new language. It would then read "a person fails to designate or reserve a smoking or non-smoking area in his establishment as provided for in 50-50-401 is guilty of a misdemeanor and is subject to a fine of not more than \$25.00".

DAILY ROLL CALL

HUMAN SERVICES AND AGING

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date FEBRUARY 17, 1987

7:30 P.M.

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	X		
REP. BOB GILBERT, VICE CHAIRMAN	X		
REP. JAN BROWN	X		
REP DUANE COMPTON	X		
REP. DOROTHY CODY		X	
REP. DICK CORNE'	X		
REP. LARRY GRINDE	X		
REP. STELLA JEAN HANSEN	X		
REP. LES KITSELMAN	X		
REP. LLOYD MC CORMICK	X		
REP. RICHARD NELSON	X		
REP. JOHN PATTERSON	X		
REP. ANGELA RUSSELL	X		
REP. JACK SANDS	X		
REP. BRUCE SIMON	X		
REP. CAROLYN SQUIRES	X		
REP. TONIA STRATFORD	X		
REP. BILL STRIZICH	X		

STANDING COMMITTEE REPORT

FEBRUARY 17, 19 87

Mr. Speaker: We, the committee on HUMAN SERVICES AND AGING

report HOUSE BILL NO. 752

☒ do pass

☐ do not pass

☐ be concurred in

☐ be not concurred in

☐ as amended

☐ statement of intent attached

REP. R. HODO GOULD,

Chairman

UNIFORM HEALTH CARE INFORMATION ACT

FIRST

WHITE

reading copy ()

color

CHAIRMAN--SEN. DOROTHY ECK
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: M-W-F

TIME: 1:00 P.M.

SECRETARY-ELLEN NEHRING

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0752	2/23	3/04		CONCUR AS AMENDED		3/7/87
WINSLOW, CAL			UNIFORM HEALTH CARE INFORMATION ACT			
HB0788	2/23	3/11		TABLED		
MENAHAN, RED			REQUIRE TEMPORARY LICENSURE OF QUALIFIED PHYSICIANS EMPLOYED AT INSTITUTIONS			
HB0789	3/02	3/18		CONCUR AS AMENDED		3/23/87
HARPER, HAL			REVISES DEFINITION OF HAZARDOUS WASTE MANAGEMENT FACILITY			
HB0825	3/02	3/23		CONCUR		3/25/87
MCCORMICK, MAC			SUBROGATE RIGHT OF SRS TO REPAYMENT OF GA BENEFITS OUT OF SSI LUMP SUM AWARD			
HB0878	4/03	4/07		CONCUR		4/7/87
ADDY, KELLY			APPROPRIATION FOR AIR QUALITY MONITORS IN YELLOWSTONE COUNTY			
HJ0037	3/02	3/23		CONCUR AS AMENDED		3/25/87
GLASER, BILL			JOINT RESOLUTION ASKING DOCTORS TO JOIN "PARTICIPATING PHYSICIANS PROGRAM"			
HJ0045	3/31	4/08		CONCUR		4/8/87
WINSLOW, CAL			REQUESTING A STUDY OF THE COST OF MANDATING HEALTH INSURANCE BENEFITS			
HJ0053	4/15			CONCUR		4/16/87
BULGER, TOM			INTERIM STUDY OF WELFARE, MEDICAID, AND GENERAL ASSISTANCE SYSTEM			

1 House BILL NO. 752
2 INTRODUCED BY W. Lester

4 A BILL FOR AN ACT ENTITLED: "THE UNIFORM HEALTH CARE
5 INFORMATION ACT; AMENDING SECTIONS 50-5-106, 50-15-704, AND
6 53-24-306, MCA; AND REPEALING SECTIONS 50-16-301 THROUGH
7 50-16-305 AND 50-16-311 THROUGH 50-16-314, MCA."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Short title. [Sections 1
11 through 25] may be cited as the "Uniform Health Care
12 Information Act".

13 NEW SECTION. Section 2. Legislative findings. The
14 legislature finds that:

15 (1) health care information is personal and sensitive
16 information that if improperly used or released may do
17 significant harm to a patient's interests in privacy and
18 health care or other interests;

19 (2) patients need access to their own health care
20 information as a matter of fairness, to enable them to make
21 informed decisions about their health care and to correct
22 inaccurate or incomplete information about themselves;

23 (3) in order to retain the full trust and confidence
24 of patients, health care providers have an interest in
25 assuring that health care information is not improperly

THERE ARE NO CHANGES IN HB 752 AND DUE TO LENGTH WILL NOT BE RE-RUN. PLEASE REFER TO SECOND READING (YELLOW) COPY FOR COMPLETE TEXT.

THIRD READING

HA 752



APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

1 INTRODUCED BY House BILL NO. 752
2
3

4 A BILL FOR AN ACT ENTITLED: "THE UNIFORM HEALTH CARE
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16 information that if improperly used or released may do
17 significant harm to a patient's interests in privacy and
18 health care or other interests;

19 (2) patients need access to their own health care
20 information as a matter of fairness, to enable them to make
21 informed decisions about their health care and to correct
22 inaccurate or incomplete information about themselves;

23 (3) in order to retain the full trust and confidence
24 of patients, health care providers have an interest in
25 assuring that health care information is not improperly

1 disclosed and in having clear and certain rules for the
2 disclosure of health care information;

3 (4) persons other than health care providers obtain,
4 use, and disclose health record information in many
5 different contexts and for many different purposes. It is
6 the public policy of this state that a patient's interest in
7 the proper use and disclosure of his health care information
8 survives even when the information is held by persons other
9 than health care providers.

10 (5) the movement of patients and their health care
11 information across state lines, access to and exchange of
12 health care information from automated data banks, and the
13 emergence of multistate health care providers creates a
14 compelling need for uniform law, rules, and procedures
15 governing the use and disclosure of health care information.

16 NEW SECTION. Section 3. Uniformity of application and
17 construction. [Sections 1 through 25] must be applied and
18 construed to effectuate their general purpose to make
19 uniform the laws with respect to the treatment of health
20 care information among states enacting them.

21 NEW SECTION. Section 4. Definitions. As used in
22 [sections 1 through 25], unless the context indicates
23 otherwise, the following definitions apply:

24 (1) "Audit" means an assessment, evaluation,
25 determination, or investigation of a health care provider by

1 a person not employed by or affiliated with the provider, to
2 determine compliance with:

3 (a) statutory, regulatory, fiscal, medical, or
4 scientific standards;

5 (b) a private or public program of payments to a
6 health care provider; or

7 (c) requirements for licensing, accreditation, or
8 certification.

9 (2) "Directory information" means information
10 disclosing the presence and the general health condition of
11 a patient who is an inpatient in a health care facility or
12 who is receiving emergency health care in a health care
13 facility.

14 (3) "General health condition" means the patient's
15 health status described in terms of critical, poor, fair,
16 good, excellent, or terms denoting similar conditions.

17 (4) "Health care" means any care, service, or
18 procedure provided by a health care provider:

19 (a) to diagnose, treat, or maintain a patient's
20 physical or mental condition; or

21 (b) that affects the structure or any function of the
22 human body.

23 (5) "Health care facility" means a hospital, clinic,
24 nursing home, laboratory, office, or similar place where a
25 health care provider provides health care to patients.

1 (6) "Health care information" means any information,
2 whether oral or recorded in any form or medium, that
3 identifies or can readily be associated with the identity of
4 a patient and relates to the patient's health care. The term
5 includes any record of disclosures of health care
6 information.

7 (7) "Health care provider" means a person who is
8 licensed, certified, or otherwise authorized by the laws of
9 this state to provide health care in the ordinary course of
10 business or practice of a profession. The term does not
11 include a person who provides health care solely through the
12 sale or dispensing of drugs or medical devices.

13 (8) "Institutional review board" means a board,
14 committee, or other group formally designated by an
15 institution or authorized under federal or state law to
16 review, approve the initiation of, or conduct periodic
17 review of research programs to assure the protection of the
18 rights and welfare of human research subjects.

19 (9) "Maintain", as related to health care information,
20 means to hold, possess, preserve, retain, store, or control
21 that information.

22 (10) "Patient" means an individual who receives or has
23 received health care. The term includes a deceased
24 individual who has received health care.

25 (11) "Person" means an individual, corporation,

1 business trust, estate, trust, partnership, association,
2 joint venture, government, governmental subdivision or
3 agency, or other legal or commercial entity.

4 NEW SECTION. Section 5. Disclosure by health care
5 provider. (1) Except as authorized in [sections 9 and 10] or
6 as otherwise specifically provided by law or the Montana
7 Rules of Civil Procedure, a health care provider, an
8 individual who assists a health care provider in the
9 delivery of health care, or an agent or employee of a health
10 care provider may not disclose health care information about
11 a patient to any other person without the patient's written
12 authorization. A disclosure made under a patient's written
13 authorization must conform to the authorization.

14 (2) A health care provider shall maintain, in
15 conjunction with a patient's recorded health care
16 information, a record of each person who has received or
17 examined, in whole or in part, the recorded health care
18 information during the preceding 3 years, except for a
19 person who has examined the recorded health care information
20 under [section 9(1) or (2)]. The record of disclosure must
21 include the name, address, and institutional affiliation, if
22 any, of each person receiving or examining the recorded
23 health care information, the date of the receipt or
24 examination, and to the extent practicable a description of
25 the information disclosed.

1 NEW SECTION. Section 6. Patient authorization to
2 health care provider for disclosure. (1) A patient may
3 authorize a health care provider to disclose the patient's
4 health care information. A health care provider shall honor
5 an authorization and, if requested, provide a copy of the
6 recorded health care information unless the health care
7 provider denies the patient access to health care
8 information under [section 14].

9 (2) A health care provider may charge a reasonable
10 fee, not to exceed his actual cost for providing the health
11 care information, and is not required to honor an
12 authorization until the fee is paid.

13 (3) To be valid, a disclosure authorization to a
14 health care provider must:

15 (a) be in writing, dated, and signed by the patient;

16 (b) identify the nature of the information to be
17 disclosed; and

18 (c) identify the person to whom the information is to
19 be disclosed.

20 (4) Except as provided by [sections 1 through 25], the
21 signing of an authorization by a patient is not a waiver of
22 any rights a patient has under other statutes, the Montana
23 Rules of Evidence, or common law.

24 NEW SECTION. Section 7. Patient authorization --
25 retention -- effective period. (1) A health care provider

1 shall retain each authorization or revocation in conjunction
2 with any health care information from which disclosures are
3 made.

4 (2) Except for authorizations to provide information
5 to third-party health care payors, an authorization may not
6 permit the release of health care information relating to
7 health care that the patient receives more than 6 months
8 after the authorization was signed.

9 (3) An authorization in effect on [the effective date
10 of sections 1 through 25] remains valid for 30 months after
11 [the effective date of sections 1 through 25] unless an
12 earlier date is specified or it is revoked under [section
13 8]. Health care information disclosed under such an
14 authorization is otherwise subject to [sections 1 through
15 25]. An authorization written after [the effective date of
16 sections 1 through 25] becomes invalid after the expiration
17 date contained in the authorization, which may not exceed 30
18 months. If the authorization does not contain an expiration
19 date, it expires 6 months after it is signed.

20 NEW SECTION. Section 8. Patient's revocation of
21 authorization for disclosure. A patient may revoke a
22 disclosure authorization to a health care provider at any
23 time unless disclosure is required to effectuate payments
24 for health care that has been provided or other substantial
25 action has been taken in reliance on the authorization. A

1 patient may not maintain an action against the health care
2 provider for disclosures made in good-faith reliance on an
3 authorization if the health care provider had no notice of
4 the revocation of the authorization.

5 NEW SECTION. Section 9. Disclosure without patient's
6 authorization based on need to know. A health care provider
7 may disclose health care information about a patient without
8 the patient's authorization, to the extent a recipient needs
9 to know the information, if the disclosure is:

10 (1) to a person who is providing health care to the
11 patient;

12 (2) to any other person who requires health care
13 information for health care education; to provide planning,
14 quality assurance, peer review, or administrative, legal,
15 financial, or actuarial services to the health care
16 provider; or for assisting the health care provider in the
17 delivery of health care and if the health care provider
18 reasonably believes that the person will:

19 (a) not use or disclose the health care information
20 for any other purpose; and

21 (b) take appropriate steps to protect the health care
22 information;

23 (3) to any other health care provider who has
24 previously provided health care to the patient, to the
25 extent necessary to provide health care to the patient,

1 unless the patient has instructed the health care provider
2 not to make the disclosure;

3 (4) to any person if the health care provider
4 reasonably believes that disclosure will avoid or minimize
5 an imminent danger to the health or safety of the patient or
6 any other individual;

7 (5) to immediate family members of the patient or any
8 other individual with whom the patient is known to have a
9 close personal relationship, if made in accordance with the
10 laws of the state and good medical or other professional
11 practice, unless the patient has instructed the health care
12 provider not to make the disclosure;

13 (6) to a health care provider who is the successor in
14 interest to the health care provider maintaining the health
15 care information;

16 (7) for use in a research project that an
17 institutional review board has determined:

18 (a) is of sufficient importance to outweigh the
19 intrusion into the privacy of the patient that would result
20 from the disclosure;

21 (b) is impracticable without the use or disclosure of
22 the health care information in individually identifiable
23 form;

24 (c) contains reasonable safeguards to protect the
25 information from redisclosure;

1 (d) contains reasonable safeguards to protect against
2 directly or indirectly identifying any patient in any report
3 of the research project; and

4 (e) contains procedures to remove or destroy at the
5 earliest opportunity, consistent with the purposes of the
6 project, information that would enable the patient to be
7 identified, unless an institutional review board authorizes
8 retention of identifying information for purposes of another
9 research project;

10 (8) to a person who obtains information for purposes
11 of an audit, if that person agrees in writing to:

12 (a) remove or destroy, at the earliest opportunity
13 consistent with the purpose of the audit, information that
14 would enable the patient to be identified; and

15 (b) not disclose the information further, except to
16 accomplish the audit or to report unlawful or improper
17 conduct involving fraud in payment for health care by a
18 health care provider or patient or other unlawful conduct by
19 a health care provider; and

20 (9) to an official of a penal or other custodial
21 institution in which the patient is detained.

22 NEW SECTION. Section 10. Disclosure without patient's
23 authorization -- other bases. A health care provider may
24 disclose health care information about a patient without the
25 patient's authorization if the disclosure is:

(1) directory information, unless the patient has instructed the health care provider not to make the disclosure;

(2) to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information or when needed to protect the public health;

(3) to federal, state, or local law enforcement authorities to the extent required by law; and

(4) pursuant to compulsory process in accordance with [sections 11 and 12].

NEW SECTION. Section 11. When health care information available by compulsory process. Health care information may not be disclosed by a health care provider pursuant to compulsory legal process or discovery in any judicial, legislative, or administrative proceeding unless:

(1) the patient has consented in writing to the release of the health care information in response to compulsory process or a discovery request;

(2) the patient has waived the right to claim confidentiality for the health care information sought;

(3) the patient is a party to the proceeding and has placed his physical or mental condition in issue;

(4) the patient's physical or mental condition is relevant to the execution or witnessing of a will;

(5) the physical or mental condition of a deceased patient is placed in issue by any person claiming or defending through or as a beneficiary of the patient;

(6) a patient's health care information is to be used in the patient's commitment proceeding;

(7) the health care information is for use in any law enforcement proceeding or investigation in which a health care provider is the subject or a party, except that health care information so obtained may not be used in any proceeding against the patient unless the matter relates to payment for his health care or unless authorized under subsection (9);

(8) the health care information is relevant to a proceeding brought under [sections 23 through 25]; or

(9) a court has determined that particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest.

NEW SECTION. Section 12. Method of compulsory process. (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding or investigation under subsection (9) of [section

1 11], the person seeking discovery or compulsory process
2 shall mail a notice by first-class mail to the patient or
3 the patient's attorney of record of the compulsory process
4 or discovery request at least 10 days before presenting the
5 certificate required under subsection (2) to the health care
6 provider.

7 (2) Service of compulsory process or discovery
8 requests upon a health care provider must be accompanied by
9 a written certification, signed by the person seeking to
10 obtain health care information or his authorized
11 representative, identifying at least one subsection of
12 [section 11] under which compulsory process or discovery is
13 being sought. The certification must also state, in the case
14 of information sought under subsection (2), (4), or (5) of
15 [section 11] or in a civil proceeding under subsection (9)
16 of [section 11], that the requirements of subsection (1) for
17 notice have been met. A person may sign the certification
18 only if the person reasonably believes that the subsection
19 of [section 11] identified in the certification provides an
20 appropriate basis for the use of discovery or compulsory
21 process. Unless otherwise ordered by the court, the health
22 care provider shall maintain a copy of the process and the
23 written certification as a permanent part of the patient's
24 health care information.

25 (3) Production of health care information under

1 [section 11] and this section does not in itself constitute
2 a waiver of any privilege, objection, or defense existing
3 under other law or rule of evidence or procedure.

4 NEW SECTION. Section 13. Requirements and procedures
5 for patient's examination and copying. (1) Upon receipt of a
6 written request from a patient to examine or copy all or
7 part of his recorded health care information, a health care
8 provider, as promptly as required under the circumstances
9 but no later than 10 days after receiving the request,
10 shall:

11 (a) make the information available to the patient for
12 examination during regular business hours and provide a
13 copy, if requested, to the patient;

14 (b) inform the patient if the information does not
15 exist or cannot be found;

16 (c) if the health care provider does not maintain a
17 record of the information, inform the patient and provide
18 the name and address, if known, of the health care provider
19 who maintains the record;

20 (d) if the information is in use or unusual
21 circumstances have delayed handling the request, inform the
22 patient and specify in writing the reasons for the delay and
23 the earliest date, not later than 21 days after receiving
24 the request, when the information will be available for
25 examination or copying or when the request will be otherwise

1 disposed of; or

2 (e) deny the request in whole or in part under
3 [section 14] and inform the patient.

4 (2) Upon request, the health care provider shall
5 provide an explanation of any code or abbreviation used in
6 the health care information. If a record of the particular
7 health care information requested is not maintained by the
8 health care provider in the requested form, he is not
9 required to create a new record or reformulate an existing
10 record to make the information available in the requested
11 form. The health care provider may charge a reasonable fee,
12 not to exceed the health care provider's actual cost, for
13 providing the health care information and is not required to
14 permit examination or copying until the fee is paid.

15 NEW SECTION. Section 14. Denial of examination and
16 copying. (1) A health care provider may deny access to
17 health care information by a patient if the health care
18 provider reasonably concludes that:

19 (a) knowledge of the health care information would be
20 injurious to the health of the patient;

21 (b) knowledge of the health care information could
22 reasonably be expected to lead to the patient's
23 identification of an individual who provided the information
24 in confidence and under circumstances in which
25 confidentiality was appropriate;

1 (c) knowledge of the health care information could
2 reasonably be expected to cause danger to the life or safety
3 of any individual;

4 (d) the health care information was compiled and is
5 used solely for litigation, quality assurance, peer review,
6 or administrative purposes; or

7 (e) access to the health care information is otherwise
8 prohibited by law.

9 (2) If a health care provider denies a request for
10 examination and copying under this section, the provider, to
11 the extent possible, shall segregate health care information
12 for which access has been denied under subsection (1) from
13 information for which access cannot be denied and permit the
14 patient to examine or copy the disclosable information.

15 (3) If a health care provider denies a patient's
16 request for examination and copying, in whole or in part,
17 under subsection (1)(a) or (1)(c), he shall permit
18 examination and copying of the record by another health care
19 provider, selected by the patient, who is licensed,
20 certified, or otherwise authorized under the laws of this
21 state to treat the patient for the same condition as the
22 health care provider denying the request. The health care
23 provider denying the request shall inform the patient of the
24 patient's right to select another health care provider under
25 this subsection.

1 NEW SECTION. Section 15. Request for correction or
2 amendment. (1) For purposes of accuracy or completeness, a
3 patient may request in writing that a health care provider
4 correct or amend its record of the patient's health care
5 information to which he has access under [section 13].

6 (2) As promptly as required under the circumstances
7 but no later than 10 days after receiving a request from a
8 patient to correct or amend its record of the patient's
9 health care information, the health care provider shall:

10 (a) make the requested correction or amendment and
11 inform the patient of the action and of the patient's right
12 to have the correction or amendment sent to previous
13 recipients of the health care information in question;

14 (b) inform the patient if the record no longer exists
15 or cannot be found;

16 (c) if the health care provider does not maintain the
17 record, inform the patient and provide him with the name and
18 address, if known, of the person who maintains the record;

19 (d) if the record is in use or unusual circumstances
20 have delayed the handling of the correction or amendment
21 request, inform the patient and specify in writing the
22 earliest date, not later than 21 days after receiving the
23 request, when the correction or amendment will be made or
24 when the request will otherwise be disposed of; or

25 (e) inform the patient in writing of the provider's

1 refusal to correct or amend the record as requested, the
2 reason for the refusal, and the patient's right to add a
3 statement of disagreement and to have that statement sent to
4 previous recipients of the disputed health care information.

5 NEW SECTION. Section 16. Procedure for adding
6 correction, amendment, or statement of disagreement. (1) In
7 making a correction or amendment, the health care provider
8 shall:

9 (a) add the amending information as a part of the
10 health record; and

11 (b) mark the challenged entries as corrected or
12 amended entries and indicate the place in the record where
13 the corrected or amended information is located, in a manner
14 practicable under the circumstances.

15 (2) If the health care provider maintaining the record
16 of the patient's health care information refuses to make the
17 patient's proposed correction or amendment, the provider
18 shall:

19 (a) permit the patient to file as a part of the record
20 of his health care information a concise statement of the
21 correction or amendment requested and the reasons therefor;
22 and

23 (b) mark the challenged entry to indicate that the
24 patient claims the entry is inaccurate or incomplete and
25 indicate the place in the record where the statement of

disagreement is located, in a manner practicable under the circumstances.

NEW SECTION. Section 17. Dissemination of corrected or amended information or statement of disagreement. (1) A health care provider, upon request of a patient, shall take reasonable steps to provide copies of corrected or amended information or of a statement of disagreement to all persons designated by the patient and identified in the health care information as having examined or received copies of the information sought to be corrected or amended.

(2) A health care provider may charge the patient a reasonable fee, not exceeding the provider's actual cost, for distributing corrected or amended information or the statement of disagreement, unless the provider's error necessitated the correction or amendment.

NEW SECTION. Section 18. Content and dissemination of notice. (1) A health care provider who provides health care at a health care facility that the provider operates and who maintains a record of a patient's health care information shall create a notice of information practices, in substantially the following form:

NOTICE

"We keep a record of the health care services we provide for you. You may ask us to see and copy that record. You may also ask us to correct that record. We will not

disclose your record to others unless you direct us to do so or unless the law authorizes or compels us to do so. You may see your record or get more information about it at _____."

(2) The health care provider shall post a copy of the notice of information practices in a conspicuous place in the health care facility and upon request provide patients or prospective patients with a copy of the notice.

NEW SECTION. Section 19. Health care representatives.

(1) A person authorized to consent to health care for another may exercise the rights of that person under [sections 1 through 25] to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized under 41-1-402 to consent to health care without parental consent, only the minor may exclusively exercise the rights of a patient under [sections 1 through 25] as to information pertaining to health care to which the minor lawfully consented.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

NEW SECTION. Section 20. Representative of deceased patient. A personal representative of a deceased patient may exercise all of the deceased patient's rights under [sections 1 through 25]. If there is no personal

1 representative or upon discharge of the personal
2 representative, a deceased patient's rights under [sections
3 1 through 25] may be exercised by persons who are authorized
4 by law to act for him.

5 NEW SECTION. Section 21. Duty to adopt security
6 safeguards. A health care provider shall effect reasonable
7 safeguards for the security of all health care information
8 it maintains.

9 NEW SECTION. Section 22. Retention of record. A
10 health care provider shall maintain a record of existing
11 health care information for at least 1 year following
12 receipt of an authorization to disclose that health care
13 information under [section 6] and during the pendency of a
14 request for examination and copying under [section 13] or a
15 request for correction or amendment under [section 15].

16 NEW SECTION. Section 23. Criminal penalty. (1) A
17 person who purposely discloses health care information in
18 violation of [sections 1 through 25] and who knew or should
19 have known that disclosure is prohibited is guilty of a
20 misdemeanor and upon conviction is punishable by a fine not
21 exceeding \$10,000 or imprisonment for a period not exceeding
22 1 year, or both.

23 (2) A person who by means of bribery, theft, or
24 misrepresentation of identity, purpose of use, or
25 entitlement to the information examines or obtains, in

1 violation of [sections 1 through 25], health care
2 information maintained by a health care provider is guilty
3 of a misdemeanor and upon conviction is punishable by a fine
4 not exceeding \$10,000 or imprisonment for a period not
5 exceeding 1 year, or both.

6 (3) A person who, knowing that a certification under
7 [section 12(2)] or a disclosure authorization under
8 [sections 6 and 7] is false, purposely presents the
9 certification or disclosure authorization to a health care
10 provider is guilty of a misdemeanor and upon conviction is
11 punishable by a fine not exceeding \$10,000 or imprisonment
12 for a period not exceeding 1 year, or both.

13 NEW SECTION. Section 24. Civil enforcement. The
14 attorney general or appropriate county attorney may maintain
15 a civil action to enforce [sections 1 through 25]. The court
16 may order any relief authorized by [section 25].

17 NEW SECTION. Section 25. Civil remedies. (1) A person
18 aggrieved by a violation of [sections 1 through 25] may
19 maintain an action for relief as provided in this section.

20 (2) The court may order the health care provider or
21 other person to comply with [sections 1 through 25] and may
22 order any other appropriate relief.

23 (3) A health care provider who relies in good faith
24 upon a certification, pursuant to [section 12(2)], is not
25 liable for disclosures made in reliance on that

certification.

(4) In an action by a patient alleging that health care information was improperly withheld under [sections 13 and 14], the burden of proof is on the health care provider to establish that the information was properly withheld.

(5) If the court determines that there is a violation of [sections 1 through 25], the aggrieved person is entitled to recover damages for pecuniary losses sustained as a result of the violation and, in addition, if the violation results from willful or grossly negligent conduct, the aggrieved person may recover not in excess of \$5,000, exclusive of any pecuniary loss.

(6) If a plaintiff prevails, the court may assess reasonable attorney fees and all other expenses reasonably incurred in the litigation.

(7) An action under [sections 1 through 25] is barred unless the action is commenced within 3 years after the cause of action accrues.

Section 26. Section 50-5-106, MCA, is amended to read:

50-5-106. Records and reports required of health care facilities -- confidentiality. Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report shall be on

forms and contain information specified by the department. Information received by the department or board through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which would identify patients. A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provisions of 45-7-401 and [section 23], unless the disclosure was authorized in writing by the patient, his guardian, or his agent in accordance with [sections 1 through 25]. Information and statistical reports from health care facilities which are considered necessary by the department for health planning and resource development activities will be made available to the public and the health planning agencies within the state."

Section 27. Section 50-15-704, MCA, is amended to read:

"50-15-704. Confidentiality. Information received by the department pursuant to this part may not be released unless:

(1) it is in statistical, nonidentifiable form;

(2) the provisions of ~~50-16-311~~ [sections 1 through 25] are satisfied;

(3) the release or transfer is to a person or organization that is qualified to perform data processing or data analysis and that has safeguards against unauthorized

1 disclosure of that information; or
2 (4) the release or transfer is to a central tumor
3 registry of another state and is of information concerning a
4 person who is residing in that state."

5 Section 28. Section 53-24-306, MCA, is amended to
6 read:

7 "53-24-306. Records of chemically dependent persons,
8 intoxicated persons, and family members. (1) The
9 registration and other records of treatment facilities shall
10 remain confidential and are privileged to the patient.

11 (2) Notwithstanding subsection (1), the department may
12 make available in accordance with [sections 1 through 25]
13 information from patients' records for purposes of research
14 into the causes and treatment of chemical dependency.
15 Information under this subsection shall not be published in
16 a way that discloses patients' names or other identifying
17 information."

18 NEW SECTION. Section 29. Severability. If a part of
19 this act is invalid, all valid parts that are severable from
20 the invalid part remain in effect. If a part of this act is
21 invalid in one or more of its applications, the part remains
22 in effect in all valid applications that are severable from
23 the invalid applications.

24 NEW SECTION. Section 30. Repealer. Sections 50-16-301
25 through 50-16-305 and 50-16-311 through 50-16-314, MCA, are

1 repealed.

-End-

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 4, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 4, 1987 at 1 P.M. in room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL NO. 749: Rep. Carolyn Squires, District # 68, sponsor of H.B. 749, stated that the purpose of the bill is to make unannounced inspections of health care facilities and clarify in state law this practice, which is now happening because of federal requirements.

PROPOSERS: Helen McKnight, Montana Senior Citizens, testified that the senior citizens support this bill because they would like to have in law the practice that is now happening. They support the inspections of health care facilities because it protects the well-being of senior citizens and other residents of health-care facilities. Exhibit # 1.

Rose Skoog, Montana Health Care Association, testified that the bill clarifies the practice of inspections that is now going on, and it is a commitment by the state to do the inspections.

William Leary, Montana Hospital Association, stated that the practice of unannounced inspections now begun because of federal regulations should be supported by state law.

Doug Blakelee, Governor's Council on the Elderly, stated that they support the bill on behalf of consumers and that it addresses the concerns that senior citizens have of institutions.

Barbara Booher, Montana Nurses' Association, stated that they promote preventive measures and patient safety and support the previous testimony. Exhibit # 2.

In closing, Rep. Squires stated that all concerned groups have cooperated in the drafting of this bill, and she urged the bill's passage. Exhibit # 3.

ACTION ON H.B. 749: Sen. Rassmussen moved that H. B. 749 BE CONCURRED IN. The motion passed unanimously. Sen. Rassmussen will carry the bill.

CONSIDERATION OF HOUSE BILL NO. 752: Rep. Cal Winslow, District # 89, sponsor of H.B. 752, stated that there are several reasons for the drafting of this legislation. Most states are drafting similar legislation and this bill is similar to that drafted in other states. Because there is so much interstate movement in health care and because health care information on individuals is used by so many organizations, people need to have adequate access to their own health care information, they need to be able to correct it if necessary, relatives may have to have access to it under some circumstances, and people need to authorize who may have access to their health care information.

A number of organizations, the American Bar Association, the American Medical Association, the American Dental Association, the American Psychiatric Association and others, have been involved in the writing of Uniform Health Acts in Montana and other states. The bill offers many provisions protecting the health care information of Montana's citizens.

William Leary, Montana Hospital Association, stated that there is nothing in the bill which affects current law negatively. The bill still protects medical records, but gives a patient access to his/her records or authority over who does have access to those records. The peer committee review minutes will not be disturbed by this bill, and the MHA urges concurrence in the bill.

Steve Waldron, Montana Council of Mental Health Centers, stated that they had worked with the researcher on all sections of the bill together and they are in support of the bill.

Barbara Booher, Montana Nurses Association, stated that the Nurses' Association basically supports the bill, but that they were offering some amendments stemming from concerns they have with the bill. They offered amendments to Sec. V, Lines 18-20, eliminating the provision that a provider can disclose information without a patient's knowing, to Sec. 8, parts 2 and 3 on Pages 8-9 and Subsec. 5 on Page 9. The Nurses' Association is concerned about patient safety and privacy in each of these amendments.

OPPONENTS: Jerome Loendorf, Montana Medical Association, stated that they are basically opposed to this bill simply because of some concerns on certain sections. They have concerns about Sec. 9, Lines 8-9, that the section is not clear about what a researcher is going to do with information they are requesting and that they may consequently make prima facie disclosures. He also recommended penalties in Sec. 23, Subsec. 1 be deleted because people have better access to filing civil suits; and he proposed an additional amendment that would call for another person to witness someone's going through patient records.

DISCUSSION OF H..B 752: Sen. Rassmussen: What is the impetus of this bill?
Rep. Winslow: Most states are drafting legislation like this bill because there is so much patient movement around the nation and health information is used by so many organizations. These bills are designed to protect the patient, yet facilitate their access to their own medical records, and to enable researchers to have adequate access to health care information.

Sen. Eck: Most of the concerns with the bill seem to stem from concerns with confidentiality?

Mr. Loendorf: Yes, that is correct.

Sen. Eck: Are state laws uniform?

Mr. Leary: State laws do vary, but a reasonable attempt is being made to bring these laws together.

Sen. Himsl: This deals with what someone else can do with patient records. Can patients get their own records?

Mr. Leary: In the hospital field, a patient can review his/her own records and request a copy of those records. The hospital always retains the original.

Mr. Loendorf: From the physician standpoint, that is not the case. The reason that the physician is not required to release all records is so that the provider can write down a complete record of the patient, and the physician does not want to ruin the doctor-patient relationship.

Sen. Hims1: What if the records are wanted for a malpractice case?

Mr. Loendorf: In cases of malpractice, the law allows the patient to get the full record.

Sen. Eck: Mr. Waldron, What special rules are there on confidentiality relating to mental health centers?

Mr. Waldron: There is a problem with the confidentiality law because you can only disclose records between professional persons. The confidentiality section doesn't work well in mental health treatment.

Sen. Eck: Does this section mean that records can be shared without a patient's approval?

Mr. Waldron: You really can't share records without a patient's approval. Within an agency, not all persons really have access to the records, although a nonprofessional does need to handle the records for various reasons.

Rep. Winslow closed his testimony by reiterating that a number of developments in recent years threaten confidentiality. These include third-party plans, involvement of more government agencies and access to computers. But many groups have worked on this bill to allow access to records for worthwhile purposes while yet protecting confidentiality. The government places importance on access to information, but yet people need to know that this information is being handled correctly and that they, too, have access to their own records.

CONSIDERATION OF HOUSE BILL NO. 402: Rep. Wm. Strizich, District # 41, sponsor of H.B. 402, stated that the purpose of H.B. 402 is to solve the management of records in mental health facilities over long periods of time. The holding of records is creating some severe storage problems. The bill allows the DHES to specify the length of time that records must be kept.

PROPOSERS: Steve Waldron, Montana Council of Mental Health Centers, testified that the current law requires that a number of records be kept, but that nowhere in the law is it clear as to how long the records need to be retained. Consequently, centers have up to thirty years of records and they are running out of storage space. It would be an expensive process to purchase microfilm equipment and to microfilm thirty years worth of records. It is questionable, anyway, as to how long records need to be kept; and the DHES would be the appropriate authority to decide a proper length of time.

Sen. Hims1: Does this confidentiality section conflict with the section in Title 53?

SENATE PUBLIC HEALTH, WELFARE
AND SAFETY COMMITTEE
MARCH 4, 1987
Page 4

Mr. Waldron: The two sections don't fit together and some major work needs to be done in mental health law.

Sen. Himsel: Did you say that the Board of Visitors is going to approve of disclosure of patient records to a patient?

Mr. Waldron: Yes, that's what it means under current law and the bill does not change that.

Sen. Eck: The previous bill has a section on retention of records. What does that mean?

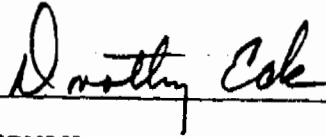
Mr. Waldron: In H.B. 752, you have to keep a record of authorization to disclose records. This current law does not conflict with 752. H.B. 752 doesn't deal with retention of records.

Sen. Eck: How long are hospitals required to keep records?

Mr. Leary: The Sept., 1986, edition states ten years. If the records are photostated, we keep the card index for twenty-five years. The previous bill also refers to retaining a list of who the records are provided to, also.

Sen. Strizich closed on H.B. 402 by thanking the committee for the hearing.

The meeting adjourned at 2:30 P.M.



CHAIRMAN

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-4-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

SENATE *Public Health* COMMITTEE

BILL HB 749, 752,
402

VISITORS' REGISTER

DATE 2-4-87

Please note bill no.

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 9, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 9, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF H.B. 196: Rep. Joan Miles, District # 45, sponsor of H.B. 196, stated that the purpose of the bill is simply to extend the jurisdiction of the Medical-Legal Panel to include dentists. The Medical Legal Panel was created ten years ago to discourage legal suits that don't have merit. The dentists will fund their portion of the the review panel.

PROPONENTS: Roger Tippy, Montana Dental Association, stated that this is a simple bill to extend the jurisdiction of the Medical-Legal Panel and that it was drafted with the advice and consent of both doctors and dentists and the legal association.

John Ahlman, Sec.-Treas., Montana Dental Association, stated that he has followed the work of the Medical-Legal Panel in their settling of disputes, that he has surveyed 454 dental members in the state, and that the members are requesting that they be included under the jurisdiction of this panel.

DISCUSSION OF H.B. 196: Sen. Himsl: Does this panel include the denturists?

Mr. Tippy: No.

Sen. Himsl: Is the assessment made by the panel made to the Board of Dentistry?

Mr. Tippy: Each individual dentist would be assessed. Also, a board may license a number of professions but they are not always subject to the jurisdiction of the Medical-Legal Panel:

Rep. Miles closed by stating that this is a bill that the groups involved have cooperated on and all are agreed to; the dentists are also in agreement with the reasonable fee.

ACTION ON H.B. 196: Sen. McLane moved that H.B. 196 BE CONCURRED IN. The vote in favor was unanimous. Sen. McLane will carry the bill.

CONSIDERATION OF HOUSE BILL NO. 364: Rep. Dorothy Bradley, District # 79, sponsor of H.B. 364, stated that the purpose of the bill is to merge the Board of Denturity with the Board of Dentistry. The bill comes to the legislature at the request of the legislative audit committee.

The bill removes one dentist from the board, reducing their number from five to four, while it adds one denturist to the board. The dentists are concerned about the loss of the one dentist because of the work that each often does in licensing new dentists.

The laws passed by the 1985 session as a result of the Denturity initiative on the 1984 ballot state that the two boards will be merged if there are fewer than thirty licensed denturists in the state by 1987. At present, there are twelve to eighteen licensed denturists in the state, with only twelve in active practice. The likelihood that thirty denturists will be practicing in Montana seems unlikely.

John Northey, Legislative Audit Office, discussed the legislative audit report and stated that the bill is self-explanatory from that report. This audit was treated as a routine audit and it raised some questions about the board having all applicants meet qualifications, questions of proper routine, and questions of proper fees. The audit office then reported back to the legislature as required.

Sen. Jacobson: You have touched on the problem of the audit and found some concerns with it.

Sen. Rassmussen: If this fails, are there any other sunset provisions?

Mr. Northey: No. The denturist law will remain on the books and the board will remain, as well. If the bill passes, the practice of denturity remains, but the denturity board does not. But other boards function as complete units and represent different factions of a profession.

Sen. Eck: When we had the split between LPN's and RN's, the LPN's had a mini board initially; they now function as a full board and act on all issues.

Sen. Hims1: Are there denturists licensed who don't practice here?

Lisa Casman: Yes, there are denturists who do that so that they can practice in a region.

Sen. Hims1: And there is an assessment against all denturists, not just those practicing in that state?

Ms. Casman: Yes.

Sen. Williams: How many denturists are practicing in the state?

Sen. Eck: Twelve.

Tom Ryan: The AARP is neither pro nor con on the bill and feels that there is nothing in the bill that couldn't be worked out.

Rep. Bradley closed by stating that there was nothing by the legislative audit committee and that the audit was done according to professional standards. Her recommendation was made after hearing from the public, as well, and she considers the bill fair to all groups.

ACTION ON HOUSE BILL NO. 752: Karen Renne explained the amendments to H.B. 752. The section dealing with the dangerous patient is being deleted because another bill in the Senate deals with this issue in a more thorough way. P. 14, Line 2 provides for a patient to see his/her own records or to be provided a copy of records and to receive those records in other than business hours. Line 22 strikes the criminal penalty because it is too easy for the number of providers to make an honest mistake. The third section of amendments deal with the chemically dependent person's records and brings this person into line with the current code. This amendment also includes the mental health patient's records.

Sen. Eck: Could you explain the need for the institutional review board in Line 17?

Mr. Leary: Montana does not have big requests for research projects to be reviewed, so there are no project review boards in hospitals now. This board would cover any requests for information by providing for flexible boards.

Sen. Rassmussen moved that the Montana Nurses Association amendments receive a do pass.

Sen. Himsel: There is quite a difference in the relationship that these amendments propose.

Sen. Eck: Yes, these amendments say that the patient must be asked.

Karen Renne: That applies if the requestor is an intimate family member or another health care provider.

Sen. Eck: This provides added privacy for the patient.

Karen Renne: The provisions on the top of page 11 also protect patient privacy unless there is a compelling state interest.

The question was called for the MNA amendments. The amendments received a 9-1 vote in favor. Sen. Hager voted no.

Sen. Jacobson moved that the amendments proposed by the Montana Medical Association receive a do pass.

Sen. Jacobson: There are three provisions for penalties in this bill. This amendment eliminates the criminal penalty that is the first one listed. It is not fair to impose such a penalty when there are so many instances in which information may be legally disclosed. We haven't proved the need for so strong a penalty, and we can correct that in two years, if we need it.

The motion to remove the criminal penalty received a unanimous DO PASS.

The third set of amendments proposed by the mental health centers clarifies the procedures that take precedence. Sen. McLane moved that the amendments receive a DO PASS. The amendments passed unanimously.

The final amendment concerned the institutional review board. Sen. Eck stated that since there are no institutional review boards, institutions would have to establish them if someone came in and asked to do research.

Mr. Leary: We do get requests for statistical information from various organizations. When the hospital gets requests from non bona fide organizations they are inclined to say no. They are equipped, however, to set up review committees quickly to review legitimate requests for information. It is usually possible to blot out patients' names on records.

Sen. McLane moved the passage of the bill as amended. The bill received a unanimous BE CONCURRED IN AS AMENDED. Sen. McLane will carry the bill.

ACTION ON H.B. 536: Sen. Hager moved that H.B. 536 BE CONCURRED IN. The motion carried unanimously. Sen. Hager will carry the bill.

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-9-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

SCRHB752.SCR

Page 2 of 3
HB 752

SENATE

SCRhb752

March 9, 1987

MR. PRESIDENT

Public Health, Welfare, and Safety

We, your committee on.....

House Bill

752

having had under consideration..... No.

third blue
reading copy (color)

UNIFORM HEALTH CARE INFORMATION ACT

WINSLOW (McLane)

Respectfully report as follows: That.....House Bill..... No. 752.....

BE AMENDED AS FOLLOWS:

1. Title, line 5.
Following: "50-15-704,"
Insert: "53-21-166,"

2. Page 5, lines 18 through 20.
Following: "years"
Strike: remainder of line 18 through "(2)]" on line 20

3. Page 8, line 12.
Following: "who"
Insert: "has provided a written assurance that the
information obtained will not be improperly disclosed
and who"

4. Page 9, line 1.
Strike: "unless"
Insert: "if"

5. Page 9, following line 1.
Strike: "not"

6. Page 9, lines 3 through 6.
Strike: subsection (4) in its entirety
Renumber: subsequent subsections

7. Page 9, line 11.
Following: "practice,"
Strike: "unless"
Insert: "if"

8. Page 9, line 12.
Following: "provider"
Strike: "not"

9. Page 9, line 25.
Following: "from"
Strike: "redisclosure"
Insert: "improper disclosure"

10. Page 11, line 1.
Following: "information,"
Strike: "unless"
Insert: "if"

11. Page 11, line 2.
Following: "provider"
Strike: "not"

12. Page 14, line 12.
Following: "hours"
Strike: "and"
Insert: "or"

13. Page 21, lines 16 through 22.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

14. Page 25, following line 4.
Insert: "Section 28. Section 53-21-166, MCA," is amended
to read:

"53-21-166. Records to be confidential -- excep-
tions. All information obtained and records prepared in
the course of providing any services under this part to
individuals under any provision of this part shall be
confidential and privileged matter. Such Except as
provided in (sections 1 through 25] information and
records may be disclosed only:

(1) in communications between qualified profes-
sional persons in the provision of services or appro-
priate referrals;

XXXXXX

XXXXXXXX

CONTINUED

Chairman.

CONTINUED

March 9, 1987

(2) when the recipient of services designates persons to whom information or records may be released, provided that if a recipient of services is a ward and his guardian or conservator designates in writing persons to whom records or information may be disclosed, such designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(3) to the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he may be entitled;

(4) for research if the department has promulgated rules for the conduct of research; such rules shall include but not be limited to the requirement that all researchers must sign an oath of confidentiality;

(5) to the courts as necessary to the administration of justice;

(6) to persons authorized by an order of court, after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the rules of civil procedure;

(7) to members of the mental disabilities board of visitors or their agents when necessary to perform their functions as set out in 53-21-104."

Renumber: subsequent sections

BE CONCURRED IN AS AMENDED

Dorothy Eck
Senator Eck

3-10-87
16

HOUSE BILL NO. 752
INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "THE UNIFORM HEALTH CARE INFORMATION ACT; AMENDING SECTIONS 50-5-106, 50-15-704, 53-21-166, AND 53-24-306, MCA; AND REPEALING SECTIONS 50-16-301 THROUGH 50-16-305 AND 50-16-311 THROUGH 50-16-314, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 25] may be cited as the "Uniform Health Care Information Act".

NEW SECTION. Section 2. Legislative findings. The legislature finds that:

(1) health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy and health care or other interests;

(2) patients need access to their own health care information as a matter of fairness, to enable them to make informed decisions about their health care and to correct inaccurate or incomplete information about themselves;

(3) in order to retain the full trust and confidence of patients, health care providers have an interest in

assuring that health care information is not improperly disclosed and in having clear and certain rules for the disclosure of health care information;

(4) persons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interest in the proper use and disclosure of his health care information survives even when the information is held by persons other than health care providers.

(5) the movement of patients and their health care information across state lines, access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules, and procedures governing the use and disclosure of health care information.

NEW SECTION. Section 3. Uniformity of application and construction. [Sections 1 through 25] must be applied and construed to effectuate their general purpose to make uniform the laws with respect to the treatment of health care information among states enacting them.

NEW SECTION. Section 4. Definitions. As used in [sections 1 through 25], unless the context indicates otherwise, the following definitions apply:

(1) "Audit" means an assessment, evaluation,

1 determination, or investigation of a health care provider by
 2 a person not employed by or affiliated with the provider, to
 3 determine compliance with:

4 (a) statutory, regulatory, fiscal, medical, or
 5 scientific standards;

6 (b) a private or public program of payments to a
 7 health care provider; or

8 (c) requirements for licensing, accreditation, or
 9 certification.

10 (2) "Directory information" means information
 11 disclosing the presence and the general health condition of
 12 a patient who is an inpatient in a health care facility or
 13 who is receiving emergency health care in a health care
 14 facility.

15 (3) "General health condition" means the patient's
 16 health status described in terms of critical, poor, fair,
 17 good, excellent, or terms denoting similar conditions.

18 (4) "Health care" means any care, service, or
 19 procedure provided by a health care provider:

20 (a) to diagnose, treat, or maintain a patient's
 21 physical or mental condition; or

22 (b) that affects the structure or any function of the
 23 human body.

24 (5) "Health care facility" means a hospital, clinic,
 25 nursing home, laboratory, office, or similar place where a

1 health care provider provides health care to patients.

2 (6) "Health care information" means any information,
 3 whether oral or recorded in any form or medium, that
 4 identifies or can readily be associated with the identity of
 5 a patient and relates to the patient's health care. The term
 6 includes any record of disclosures of health care
 7 information.

8 (7) "Health care provider" means a person who is
 9 licensed, certified, or otherwise authorized by the laws of
 10 this state to provide health care in the ordinary course of
 11 business or practice of a profession. The term does not
 12 include a person who provides health care solely through the
 13 sale or dispensing of drugs or medical devices.

14 (8) "Institutional review board" means a board,
 15 committee, or other group formally designated by an
 16 institution or authorized under federal or state law to
 17 review, approve the initiation of, or conduct periodic
 18 review of research programs to assure the protection of the
 19 rights and welfare of human research subjects.

20 (9) "Maintain", as related to health care information,
 21 means to hold, possess, preserve, retain, store, or control
 22 that information.

23 (10) "Patient" means an individual who receives or has
 24 received health care. The term includes a deceased
 25 individual who has received health care.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

NEW SECTION. Section 5. Disclosure by health care provider. (1) Except as authorized in [sections 9 and 10] or as otherwise specifically provided by law or the Montana Rules of Civil Procedure, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent or employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A health care provider shall maintain, in conjunction with a patient's recorded health care information, a record of each person who has received or examined, in whole or in part, the recorded health care information during the preceding 3 years, ~~except for a person who has examined the recorded health care information under [section 9(1) or (2)]~~. The record of disclosure must include the name, address, and institutional affiliation, if any, of each person receiving or examining the recorded health care information, the date of the receipt or examination, and to the extent practicable a description of

the information disclosed.

NEW SECTION. Section 6. Patient authorization to health care provider for disclosure. (1) A patient may authorize a health care provider to disclose the patient's health care information. A health care provider shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider denies the patient access to health care information under [section 14].

(2) A health care provider may charge a reasonable fee, not to exceed his actual cost for providing the health care information, and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider must:

- (a) be in writing, dated, and signed by the patient;
- (b) identify the nature of the information to be disclosed; and
- (c) identify the person to whom the information is to be disclosed.

(4) Except as provided by [sections 1 through 25], the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the Montana Rules of Evidence, or common law.

NEW SECTION. Section 7. Patient authorization --

1 retention -- effective period. (1) A health care provider
2 shall retain each authorization or revocation in conjunction
3 with any health care information from which disclosures are
4 made.

5 (2) Except for authorizations to provide information
6 to third-party health care payors, an authorization may not
7 permit the release of health care information relating to
8 health care that the patient receives more than 6 months
9 after the authorization was signed.

10 (3) An authorization in effect on [the effective date
11 of sections 1 through 25] remains valid for 30 months after
12 [the effective date of sections 1 through 25] unless an
13 earlier date is specified or it is revoked under [section
14 8]. Health care information disclosed under such an
15 authorization is otherwise subject to [sections 1 through
16 25]. An authorization written after [the effective date of
17 sections 1 through 25] becomes invalid after the expiration
18 date contained in the authorization, which may not exceed 30
19 months. If the authorization does not contain an expiration
20 date, it expires 6 months after it is signed.

21 NEW SECTION. Section 8. Patient's revocation of
22 authorization for disclosure. A patient may revoke a
23 disclosure authorization to a health care provider at any
24 time unless disclosure is required to effectuate payments
25 for health care that has been provided or other substantial

1 action has been taken in reliance on the authorization. A
2 patient may not maintain an action against the health care
3 provider for disclosures made in good-faith reliance on an
4 authorization if the health care provider had no notice of
5 the revocation of the authorization.

6 NEW SECTION. Section 9. Disclosure without patient's
7 authorization based on need to know. A health care provider
8 may disclose health care information about a patient without
9 the patient's authorization, to the extent a recipient needs
10 to know the information, if the disclosure is:

11 (1) to a person who is providing health care to the
12 patient;

13 (2) to any other person who HAS PROVIDED A WRITTEN
14 ASSURANCE THAT THE INFORMATION OBTAINED WILL NOT BE
15 IMPROPERLY DISCLOSED AND WHO requires health care
16 information for health care education; to provide planning,
17 quality assurance, peer review, or administrative, legal,
18 financial, or actuarial services to the health care
19 provider; or for assisting the health care provider in the
20 delivery of health care and if the health care provider
21 reasonably believes that the person will:

22 (a) not use or disclose the health care information
23 for any other purpose; and

24 (b) take appropriate steps to protect the health care
25 information;

(3) to any other health care provider who has previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless IF the patient has instructed the health care provider not to make the disclosure;

~~(4) to any person if the health care provider reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual;~~

~~(5)(4)~~ to immediate family members of the patient or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with the laws of the state and good medical or other professional practice, unless IF the patient has instructed the health care provider not to make the disclosure;

~~(6)(5)~~ to a health care provider who is the successor in interest to the health care provider maintaining the health care information;

~~(7)(5)~~ for use in a research project that an institutional review board has determined:

(a) is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(b) is impracticable without the use or disclosure of the health care information in individually identifiable

form;

(c) contains reasonable safeguards to protect the information from redisclosure IMPROPER DISCLOSURE;

(d) contains reasonable safeguards to protect against directly or indirectly identifying any patient in any report of the research project; and

(e) contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

~~(8)(7)~~ to a person who obtains information for purposes of an audit, if that person agrees in writing to:

(a) remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(b) not disclose the information further, except to accomplish the audit or to report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient or other unlawful conduct by a health care provider; and

~~(9)(8)~~ to an official of a penal or other custodial institution in which the patient is detained.

NEW SECTION. Section 10. Disclosure without patient's

1 authorization -- other bases. A health care provider may
2 disclose health care information about a patient without the
3 patient's authorization if the disclosure is:

4 (1) directory information, unless IF the patient has
5 instructed the health care provider not to make the
6 disclosure;

7 (2) to federal, state, or local public health
8 authorities, to the extent the health care provider is
9 required by law to report health care information or when
10 needed to protect the public health;

11 (3) to federal, state, or local law enforcement
12 authorities to the extent required by law; and

13 (4) pursuant to compulsory process in accordance with
14 [sections 11 and 12].

15 NEW SECTION. Section 11. When health care information
16 available by compulsory process. Health care information may
17 not be disclosed by a health care provider pursuant to
18 compulsory legal process or discovery in any judicial,
19 legislative, or administrative proceeding unless:

20 (1) the patient has consented in writing to the
21 release of the health care information in response to
22 compulsory process or a discovery request;

23 (2) the patient has waived the right to claim
24 confidentiality for the health care information sought;

25 (3) the patient is a party to the proceeding and has

1 placed his physical or mental condition in issue;

2 (4) the patient's physical or mental condition is
3 relevant to the execution or witnessing of a will;

4 (5) the physical or mental condition of a deceased
5 patient is placed in issue by any person claiming or
6 defending through or as a beneficiary of the patient;

7 (6) a patient's health care information is to be used
8 in the patient's commitment proceeding;

9 (7) the health care information is for use in any law
10 enforcement proceeding or investigation in which a health
11 care provider is the subject or a party, except that health
12 care information so obtained may not be used in any
13 proceeding against the patient unless the matter relates to
14 payment for his health care or unless authorized under
15 subsection (9);

16 (8) the health care information is relevant to a
17 proceeding brought under [sections 23 through 25]; or

18 (9) a court has determined that particular health care
19 information is subject to compulsory legal process or
20 discovery because the party seeking the information has
21 demonstrated that there is a compelling state interest that
22 outweighs the patient's privacy interest.

23 NEW SECTION. Section 12. Method of compulsory
24 process. (1) Unless the court for good cause shown
25 determines that the notification should be waived or

modified, if health care information is sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding or investigation under subsection (9) of [section 11], the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or his authorized representative, identifying at least one subsection of [section 11] under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding under subsection (9) of [section 11], that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of [section 11] identified in the certification provides an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the

written certification as a permanent part of the patient's health care information.

(3) Production of health care information under [section 11] and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure.

NEW SECTION. Section 13. Requirements and procedures for patient's examination and copying. (1) Upon receipt of a written request from a patient to examine or copy all or part of his recorded health care information, a health care provider, as promptly as required under the circumstances but no later than 10 days after receiving the request, shall:

(a) make the information available to the patient for examination during regular business hours and OR provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) if the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and

the earliest date, not later than 21 days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) deny the request in whole or in part under [section 14] and inform the patient.

(2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, he is not required to create a new record or reformulate an existing record to make the information available in the requested form. The health care provider may charge a reasonable fee, not to exceed the health care provider's actual cost, for providing the health care information and is not required to permit examination or copying until the fee is paid.

NEW SECTION. Section 14. Denial of examination and copying. (1) A health care provider may deny access to health care information by a patient if the health care provider reasonably concludes that:

(a) knowledge of the health care information would be injurious to the health of the patient;

(b) knowledge of the health care information could reasonably be expected to lead to the patient's

identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate;

(c) knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;

(d) the health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes; or

(e) access to the health care information is otherwise prohibited by law.

(2) If a health care provider denies a request for examination and copying under this section, the provider, to the extent possible, shall segregate health care information for which access has been denied under subsection (1) from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

(3) If a health care provider denies a patient's request for examination and copying, in whole or in part, under subsection (1)(a) or (1)(c), he shall permit examination and copying of the record by another health care provider, selected by the patient, who is licensed, certified, or otherwise authorized under the laws of this state to treat the patient for the same condition as the health care provider denying the request. The health care

provider denying the request shall inform the patient of the patient's right to select another health care provider under this subsection.

NEW SECTION. Section 15. Request for correction or amendment. (1) For purposes of accuracy or completeness, a patient may request in writing that a health care provider correct or amend its record of the patient's health care information to which he has access under [section 13].

(2) As promptly as required under the circumstances but no later than 10 days after receiving a request from a patient to correct or amend its record of the patient's health care information, the health care provider shall:

(a) make the requested correction or amendment and inform the patient of the action and of the patient's right to have the correction or amendment sent to previous recipients of the health care information in question;

(b) inform the patient if the record no longer exists or cannot be found;

(c) if the health care provider does not maintain the record, inform the patient and provide him with the name and address, if known, of the person who maintains the record;

(d) if the record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing the earliest date, not later than 21 days after receiving the

request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) inform the patient in writing of the provider's refusal to correct or amend the record as requested, the reason for the refusal, and the patient's right to add a statement of disagreement and to have that statement sent to previous recipients of the disputed health care information.

NEW SECTION. Section 16. Procedure for adding correction, amendment, or statement of disagreement. (1) In making a correction or amendment, the health care provider shall:

(a) add the amending information as a part of the health record; and

(b) mark the challenged entries as corrected or amended entries and indicate the place in the record where the corrected or amended information is located, in a manner practicable under the circumstances.

(2) If the health care provider maintaining the record of the patient's health care information refuses to make the patient's proposed correction or amendment, the provider shall:

(a) permit the patient to file as a part of the record of his health care information a concise statement of the correction or amendment requested and the reasons therefor; and

1 (b) mark the challenged entry to indicate that the
2 patient claims the entry is inaccurate or incomplete and
3 indicate the place in the record where the statement of
4 disagreement is located, in a manner practicable under the
5 circumstances.

6 NEW SECTION. Section 17. Dissemination of corrected
7 or amended information or statement of disagreement. (1) A
8 health care provider, upon request of a patient, shall take
9 reasonable steps to provide copies of corrected or amended
10 information or of a statement of disagreement to all persons
11 designated by the patient and identified in the health care
12 information as having examined or received copies of the
13 information sought to be corrected or amended.

14 (2) A health care provider may charge the patient a
15 reasonable fee, not exceeding the provider's actual cost,
16 for distributing corrected or amended information or the
17 statement of disagreement, unless the provider's error
18 necessitated the correction or amendment.

19 NEW SECTION. Section 18. Content and dissemination of
20 notice. (1) A health care provider who provides health care
21 at a health care facility that the provider operates and who
22 maintains a record of a patient's health care information
23 shall create a notice of information practices, in
24 substantially the following form:

25 NOTICE

1 "We keep a record of the health care services we
2 provide for you. You may ask us to see and copy that record.
3 You may also ask us to correct that record. We will not
4 disclose your record to others unless you direct us to do so
5 or unless the law authorizes or compels us to do so. You may
6 see your record or get more information about it at
7 _____."

8 (2) The health care provider shall post a copy of the
9 notice of information practices in a conspicuous place in
10 the health care facility and upon request provide patients
11 or prospective patients with a copy of the notice.

12 NEW SECTION. Section 19. Health care representatives.
13 (1) A person authorized to consent to health care for
14 another may exercise the rights of that person under
15 [sections 1 through 25] to the extent necessary to
16 effectuate the terms or purposes of the grant of authority.
17 If the patient is a minor and is authorized under 41-1-402
18 to consent to health care without parental consent, only the
19 minor may exclusively exercise the rights of a patient under
20 [sections 1 through 25] as to information pertaining to
21 health care to which the minor lawfully consented.

22 (2) A person authorized to act for a patient shall act
23 in good faith to represent the best interests of the
24 patient.

25 NEW SECTION. Section 20. Representative of deceased

1 patient. A personal representative of a deceased patient may
 2 exercise all of the deceased patient's rights under
 3 [sections 1 through 25]. If there is no personal
 4 representative or upon discharge of the personal
 5 representative, a deceased patient's rights under [sections
 6 1 through 25] may be exercised by persons who are authorized
 7 by law to act for him.

8 NEW SECTION. Section 21. Duty to adopt security
 9 safeguards. A health care provider shall effect reasonable
 10 safeguards for the security of all health care information
 11 it maintains.

12 NEW SECTION. Section 22. Retention of record. A
 13 health care provider shall maintain a record of existing
 14 health care information for at least 1 year following
 15 receipt of an authorization to disclose that health care
 16 information under [section 6] and during the pendency of a
 17 request for examination and copying under [section 13] or a
 18 request for correction or amendment under [section 15].

19 NEW SECTION. Section 23. Criminal penalty. ~~††---A~~
 20 ~~person--who--purposely--discloses--health--care--information--in~~
 21 ~~violation--of--{sections--1--through--25}--and--who--knew--or--should~~
 22 ~~have--known--that--disclosure--is--prohibited--is--guilty--of--a~~
 23 ~~misdemeanor--and--upon--conviction--is--punishable--by--a--fine--not~~
 24 ~~exceeding--\$10,000--or--imprisonment--for--a--period--not--exceeding~~
 25 ~~1--year--or--both--~~

1 ~~†2†(1)~~ A person who by means of bribery, theft, or
 2 misrepresentation of identity, purpose of use, or
 3 entitlement to the information examines or obtains, in
 4 violation of [sections 1 through 25], health care
 5 information maintained by a health care provider is guilty
 6 of a misdemeanor and upon conviction is punishable by a fine
 7 not exceeding \$10,000 or imprisonment for a period not
 8 exceeding 1 year, or both.

9 ~~†3†(2)~~ A person who, knowing that a certification
 10 under [section 12(2)] or a disclosure authorization under
 11 [sections 6 and 7] is false, purposely presents the
 12 certification or disclosure authorization to a health care
 13 provider is guilty of a misdemeanor and upon conviction is
 14 punishable by a fine not exceeding \$10,000 or imprisonment
 15 for a period not exceeding 1 year, or both.

16 NEW SECTION. Section 24. Civil enforcement. The
 17 attorney general or appropriate county attorney may maintain
 18 a civil action to enforce [sections 1 through 25]. The court
 19 may order any relief authorized by [section 25].

20 NEW SECTION. Section 25. Civil remedies. (1) A person
 21 aggrieved by a violation of [sections 1 through 25] may
 22 maintain an action for relief as provided in this section.

23 (2) The court may order the health care provider or
 24 other person to comply with [sections 1 through 25] and may
 25 order any other appropriate relief.

1 (3) A health care provider who relies in good faith
2 upon a certification, pursuant to [section 12(2)], is not
3 liable for disclosures made in reliance on that
4 certification.

5 (4) In an action by a patient alleging that health
6 care information was improperly withheld under [sections 13
7 and 14], the burden of proof is on the health care provider
8 to establish that the information was properly withheld.

9 (5) If the court determines that there is a violation
10 of [sections 1 through 25], the aggrieved person is entitled
11 to recover damages for pecuniary losses sustained as a
12 result of the violation and, in addition, if the violation
13 results from willful or grossly negligent conduct, the
14 aggrieved person may recover not in excess of \$5,000,
15 exclusive of any pecuniary loss.

16 (6) If a plaintiff prevails, the court may assess
17 reasonable attorney fees and all other expenses reasonably
18 incurred in the litigation.

19 (7) An action under [sections 1 through 25] is barred
20 unless the action is commenced within 3 years after the
21 cause of action accrues.

22 Section 26. Section 50-5-106, MCA, is amended to read:

23 "50-5-106. Records and reports required of health care
24 facilities -- confidentiality. Health care facilities shall
25 keep records and make reports as required by the department.

1 Before February 1 of each year, every licensed health care
2 facility shall submit an annual report for the preceding
3 calendar year to the department. The report shall be on
4 forms and contain information specified by the department.
5 Information received by the department or board through
6 reports, inspections, or provisions of parts 1 and 2 may not
7 be disclosed in a way which would identify patients. A
8 department employee who discloses information which would
9 identify a patient shall be dismissed from employment and
10 subject to the provisions of 45-7-401 and [section 23],
11 unless the disclosure was authorized in writing by the
12 patient, his guardian, or his agent in accordance with
13 [sections 1 through 25]. Information and statistical reports
14 from health care facilities which are considered necessary
15 by the department for health planning and resource
16 development activities will be made available to the public
17 and the health planning agencies within the state."

18 Section 27. Section 50-15-704, MCA, is amended to
19 read:

20 "50-15-704. Confidentiality. Information received by
21 the department pursuant to this part may not be released
22 unless:

- 23 (1) it is in statistical, nonidentifiable form;
24 (2) the provisions of ~~50-16-311~~ [sections 1 through
25 25] are satisfied;

(3) the release or transfer is to a person or organization that is qualified to perform data processing or data analysis and that has safeguards against unauthorized disclosure of that information; or

(4) the release or transfer is to a central tumor registry of another state and is of information concerning a person who is residing in that state."

SECTION 28. SECTION 53-21-166, MCA, IS AMENDED TO READ:

"53-21-166. Records to be confidential -- exceptions. All information obtained and records prepared in the course of providing any services under this part to individuals under any provision of this part shall be confidential and privileged matter. Such Except as provided in [sections 1 through 25], information and records may be disclosed only:

(1) in communications between qualified professional persons in the provision of services or appropriate referrals;

(2) when the recipient of services designates persons to whom information or records may be released, provided that if a recipient of services is a ward and his guardian or conservator designates in writing persons to whom records or information may be disclosed, such designation shall be valid in lieu of the designation by the recipient; except that nothing in this section shall be construed to compel a

physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(3) to the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which he may be entitled;

(4) for research if the department has promulgated rules for the conduct of research; such rules shall include but not be limited to the requirement that all researchers must sign an oath of confidentiality;

(5) to the courts as necessary to the administration of justice;

(6) to persons authorized by an order of court, after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the rules of civil procedure;

(7) to members of the mental disabilities board of visitors or their agents when necessary to perform their functions as set out in 53-21-104."

Section 29. Section 53-24-306, MCA, is amended to read:

"53-24-306. Records of chemically dependent persons, intoxicated persons, and family members. (1) The

1 registration and other records of treatment facilities shall
2 remain confidential and are privileged to the patient.

3 (2) Notwithstanding subsection (1), the department may
4 make available in accordance with [sections 1 through 25]
5 information from patients' records for purposes of research
6 into the causes and treatment of chemical dependency.
7 Information under this subsection shall not be published in
8 a way that discloses patients' names or other identifying
9 information."

10 NEW SECTION. Section 30. Severability. If a part of
11 this act is invalid, all valid parts that are severable from
12 the invalid part remain in effect. If a part of this act is
13 invalid in one or more of its applications, the part remains
14 in effect in all valid applications that are severable from
15 the invalid applications.

16 NEW SECTION. Section 31. Repealer. Sections 50-16-301
17 through 50-16-305 and 50-16-311 through 50-16-314, MCA, are
18 repealed.

-End-

CONFERENCE COMMITTEE REPORT

Report No.One.....

1 of 4

April 10 19 87...

SPEAKER

I, your _____ Free _____ Conference Committee on

on House Bill 752

and considered _____ Senate Committee on Public Health, Welfare, and

Safety amendments to the third reading copy, dated

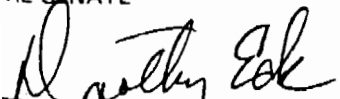
March 7, 1987.

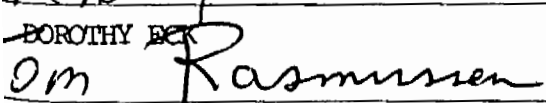
I recommend as follows:

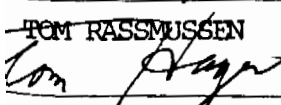
That House Bill 752, reference copy, be amended as
indicated in the instructions.

That this Conference Committee report be adopted.

FOR THE SENATE



DOROTHY ECK


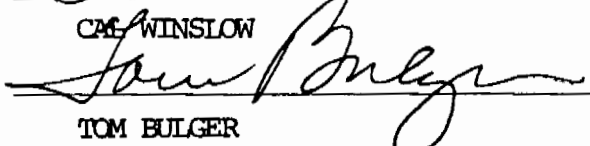
TOM RASMUSSEN


TOM HAGER

FOR THE HOUSE



BOB GILBERT


CAL WINSLOW


TOM BULGER

T REJECT

.....~~april 10~~..... 198

INSTRUCTIONS

1. Page 3, lines 19 through 22.

Following: "provider"

Strike: remainder of line 19 through "affects" on line 22

Insert: ", including medical or psychological diagnosis,
treatment, evaluation, advice, or other services that
affect"

2. Page 4, following line 25.

Insert: "(11) "Peer review" means an evaluation of health
care services by a committee of a state or local
professional organization of health care providers or a
committee of medical staff of a licensed health care
facility. The committee must be:(a) authorized by law to evaluate health care
services; and(b) governed by written bylaws approved by the
governing board of the health care facility or an
organization of health care providers."

Renumber: subsequent subsection

3. Page 5, line 21.

Following: "~~{section 9(1)-or-9(2)}~~"Insert: "except for an agent or employee of the health care
provider or a person who has examined the recorded
health care information under [section 9(2)]."

4. Page 8, lines 13 through 15.

Following: "who" on line 13

Strike: remainder of line 13 through "WHO" on line 15

5. Page 9, line 4.

Following: "~~unless~~"Strike: "IF"Insert: "~~unless~~"

6. Page 9, line 5.

Following: "~~not~~"

Insert: "not"

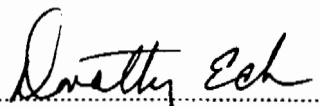
7. Page 9, line 14.

Following: "~~unless~~"Strike: "IF"Insert: "~~unless~~"

8. Page 9, line 15.

Following: "~~not~~"

Insert: "not"



April 10

19 87

9. Page 11, line 4.

Following: "~~unless~~"

Strike: "IF"

Insert: "unless"

10. Page 11, line 5.

Following: "~~not~~"

Insert: "not"

11. Page 11, line 12.

Following: "law;"

Strike: "and"

Insert: "(4) to a law enforcement officer about the general physical condition of a patient being treated in a health care facility, if the patient was injured on a public roadway, or was injured by the possible criminal act of another; or"

Renumber: subsequent subsection

12. Page 12, line 3.

Following: "will"

Insert: "or other document"

13. Page 16, line 9.

Following: "purposes;"

Strike: "or"

Insert: "(e) the health care provider obtained the information from a person other than the patient; or"

Renumber: subsequent subsection

14. Page 16, following line 11.

Insert: "(2) Except as provided in [section 19], a health care provider may deny access to health care information by a patient who is a minor if:

(a) the patient is committed to a mental health facility; or

(b) the patient's parents or guardian have not authorized the health care provider to disclose the patient's health care information."

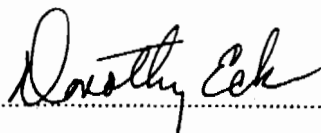
Renumber: subsequent subsections

15. Page 16, lines 22 through 24.

Following: "provider"

Strike: ", selected by the patient, who is licensed, certified, or otherwise authorized under the laws of this state to treat"

Insert: "who is providing health care services to"



Chairman.

16. Page 23, following line 4.

Insert: "(4) No disciplinary or punitive action may be taken against a health care provider or his employee or agent who brings evidence of a violation of [sections 1 through 25] to the attention of the patient or an appropriate authority."

Renumber: subsequent subsections

17. Page 25, lines 16 and 17.

Following: "qualified"

Strike: "professional persons"

Insert: "professionals"

~~2.11.17.32x.txt~~

Dorothy Eck

HOUSE BILL NO. 752

INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "THE UNIFORM HEALTH CARE INFORMATION ACT; AMENDING SECTIONS 50-5-106, 50-15-704, 53-21-166, AND 53-24-306, MCA; AND REPEALING SECTIONS 50-16-301 THROUGH 50-16-305 AND 50-16-311 THROUGH 50-16-314, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 25] may be cited as the "Uniform Health Care Information Act".

NEW SECTION. Section 2. Legislative findings. The legislature finds that:

(1) health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy and health care or other interests;

(2) patients need access to their own health care information as a matter of fairness, to enable them to make informed decisions about their health care and to correct inaccurate or incomplete information about themselves;

(3) in order to retain the full trust and confidence of patients, health care providers have an interest in

assuring that health care information is not improperly disclosed and in having clear and certain rules for the disclosure of health care information;

(4) persons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interest in the proper use and disclosure of his health care information survives even when the information is held by persons other than health care providers.

(5) the movement of patients and their health care information across state lines, access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules, and procedures governing the use and disclosure of health care information.

NEW SECTION. Section 3. Uniformity of application and construction. [Sections 1 through 25] must be applied and construed to effectuate their general purpose to make uniform the laws with respect to the treatment of health care information among states enacting them.

NEW SECTION. Section 4. Definitions. As used in [sections 1 through 25], unless the context indicates otherwise, the following definitions apply:

(1) "Audit" means an assessment, evaluation,

determination, or investigation of a health care provider by a person not employed by or affiliated with the provider, to determine compliance with:

(a) statutory, regulatory, fiscal, medical, or scientific standards;

(b) a private or public program of payments to a health care provider; or

(c) requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence and the general health condition of a patient who is an inpatient in a health care facility or who is receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of critical, poor, fair, good, excellent, or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider:

~~(a) to diagnose, treat, or maintain a patient's physical or mental condition; or~~

~~(b) that affects, INCLUDING MEDICAL OR PSYCHOLOGICAL DIAGNOSIS, TREATMENT, EVALUATION, ADVICE, OR OTHER SERVICES THAT AFFECT~~ the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic,

nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and relates to the patient's health care. The term includes any record of disclosures of health care information.

(7) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession. The term does not include a person who provides health care solely through the sale or dispensing of drugs or medical devices.

(8) "Institutional review board" means a board, committee, or other group formally designated by an institution or authorized under federal or state law to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(9) "Maintain", as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(10) "Patient" means an individual who receives or has received health care. The term includes a deceased

individual who has received health care.

(11) "PEER REVIEW" MEANS AN EVALUATION OF HEALTH CARE SERVICES BY A COMMITTEE OF A STATE OR LOCAL PROFESSIONAL ORGANIZATION OF HEALTH CARE PROVIDERS OR A COMMITTEE OF MEDICAL STAFF OF A LICENSED HEALTH CARE FACILITY. THE COMMITTEE MUST BE:

(A) AUTHORIZED BY LAW TO EVALUATE HEALTH CARE SERVICES; AND

(B) GOVERNED BY WRITTEN BYLAWS APPROVED BY THE GOVERNING BOARD OF THE HEALTH CARE FACILITY OR AN ORGANIZATION OF HEALTH CARE PROVIDERS.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

NEW SECTION. Section 5. Disclosure by health care provider. (1) Except as authorized in [sections 9 and 10] or as otherwise specifically provided by law or the Montana Rules of Civil Procedure, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent or employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A health care provider shall maintain, in conjunction with a patient's recorded health care information, a record of each person who has received or examined, in whole or in part, the recorded health care information during the preceding 3 years, ~~except for a person who has examined the recorded health care information under [section 9(1)] or [2]~~ EXCEPT FOR AN AGENT OR EMPLOYEE OF THE HEALTH CARE PROVIDER OR A PERSON WHO HAS EXAMINED THE RECORDED HEALTH CARE INFORMATION UNDER [SECTION 9(2)]. The record of disclosure must include the name, address, and institutional affiliation, if any, of each person receiving or examining the recorded health care information, the date of the receipt or examination, and to the extent practicable a description of the information disclosed.

NEW SECTION. Section 6. Patient authorization to health care provider for disclosure. (1) A patient may authorize a health care provider to disclose the patient's health care information. A health care provider shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider denies the patient access to health care information under [section 14].

(2) A health care provider may charge a reasonable fee, not to exceed his actual cost for providing the health care information, and is not required to honor an

1 authorization until the fee is paid.

2 (3) To be valid, a disclosure authorization to a
3 health care provider must:

4 (a) be in writing, dated, and signed by the patient;

5 (b) identify the nature of the information to be
6 disclosed; and

7 (c) identify the person to whom the information is to
8 be disclosed.

9 (4) Except as provided by [sections 1 through 25], the
10 signing of an authorization by a patient is not a waiver of
11 any rights a patient has under other statutes, the Montana
12 Rules of Evidence, or common law.

13 NEW SECTION. Section 7. Patient authorization --
14 retention -- effective period. (1) A health care provider
15 shall retain each authorization or revocation in conjunction
16 with any health care information from which disclosures are
17 made.

18 (2) Except for authorizations to provide information
19 to third-party health care payors, an authorization may not
20 permit the release of health care information relating to
21 health care that the patient receives more than 6 months
22 after the authorization was signed.

23 (3) An authorization in effect on [the effective date
24 of sections 1 through 25] remains valid for 30 months after
25 [the effective date of sections 1 through 25] unless an

1 earlier date is specified or it is revoked under [section
2 8]. Health care information disclosed under such an
3 authorization is otherwise subject to [sections 1 through
4 25]. An authorization written after [the effective date of
5 sections 1 through 25] becomes invalid after the expiration
6 date contained in the authorization, which may not exceed 30
7 months. If the authorization does not contain an expiration
8 date, it expires 6 months after it is signed.

9 NEW SECTION. Section 8. Patient's revocation of
10 authorization for disclosure. A patient may revoke a
11 disclosure authorization to a health care provider at any
12 time unless disclosure is required to effectuate payments
13 for health care that has been provided or other substantial
14 action has been taken in reliance on the authorization. A
15 patient may not maintain an action against the health care
16 provider for disclosures made in good-faith reliance on an
17 authorization if the health care provider had no notice of
18 the revocation of the authorization.

19 NEW SECTION. Section 9. Disclosure without patient's
20 authorization based on need to know. A health care provider
21 may disclose health care information about a patient without
22 the patient's authorization, to the extent a recipient needs
23 to know the information, if the disclosure is:

24 (1) to a person who is providing health care to the
25 patient;

1 (2) to any other person who ~~HAS-PROVIDED-A-WRITTEN~~
2 ~~ASSURANCE--THAT--THE--INFORMATION--OBTAINED--WILL--NOT--BE~~
3 ~~IMPROPERLY---DISCLOSED---AND---WHO~~ requires health care
4 information for health care education; to provide planning,
5 quality assurance, peer review, or administrative, legal,
6 financial, or actuarial services to the health care
7 provider; or for assisting the health care provider in the
8 delivery of health care and if the health care provider
9 reasonably believes that the person will:
10 (a) not use or disclose the health care information
11 for any other purpose; and
12 (b) take appropriate steps to protect the health care
13 information;
14 (3) to any other health care provider who has
15 previously provided health care to the patient, to the
16 extent necessary to provide health care to the patient,
17 ~~unless IF UNLESS~~ the patient has instructed the health care
18 provider ~~not NOT~~ to make the disclosure;
19 ~~{4}--to---any---person--if--the--health--care--provider~~
20 ~~reasonably-believes-that-disclosure-will-avoid-or--minimize~~
21 ~~an-imminent-danger-to-the-health-or-safety-of-the-patient-or~~
22 ~~any-other-individual;~~
23 ~~{5}{4}~~ to immediate family members of the patient or
24 any other individual with whom the patient is known to have
25 a close personal relationship, if made in accordance with

1 the laws of the state and good medical or other professional
2 practice, ~~unless IF UNLESS~~ the patient has instructed the
3 health care provider ~~not NOT~~ to make the disclosure;
4 ~~{6}{5}~~ to a health care provider who is the successor
5 in interest to the health care provider maintaining the
6 health care information;
7 ~~{7}{6}~~ for use in a research project that an
8 institutional review board has determined:
9 (a) is of sufficient importance to outweigh the
10 intrusion into the privacy of the patient that would result
11 from the disclosure;
12 (b) is impracticable without the use or disclosure of
13 the health care information in individually identifiable
14 form;
15 (c) contains reasonable safeguards to protect the
16 information from ~~redisclosure~~ IMPROPER DISCLOSURE;
17 (d) contains reasonable safeguards to protect against
18 directly or indirectly identifying any patient in any report
19 of the research project; and
20 (e) contains procedures to remove or destroy at the
21 earliest opportunity, consistent with the purposes of the
22 project, information that would enable the patient to be
23 identified, unless an institutional review board authorizes
24 retention of identifying information for purposes of another
25 research project;

1 ~~(8)~~(7) to a person who obtains information for
2 purposes of an audit, if that person agrees in writing to:

3 (a) remove or destroy, at the earliest opportunity
4 consistent with the purpose of the audit, information that
5 would enable the patient to be identified; and

6 (b) not disclose the information further, except to
7 accomplish the audit or to report unlawful or improper
8 conduct involving fraud in payment for health care by a
9 health care provider or patient or other unlawful conduct by
10 a health care provider; and

11 ~~(9)~~(8) to an official of a penal or other custodial
12 institution in which the patient is detained.

13 NEW SECTION. Section 10. Disclosure without patient's
14 authorization -- other bases. A health care provider may
15 disclose health care information about a patient without the
16 patient's authorization if the disclosure is:

17 (1) directory information, ~~unless~~ IF UNLESS the
18 patient has instructed the health care provider not NOT to
19 make the disclosure;

20 (2) to federal, state, or local public health
21 authorities, to the extent the health care provider is
22 required by law to report health care information or when
23 needed to protect the public health;

24 (3) to federal, state, or local law enforcement
25 authorities to the extent required by law; and

1 ~~(4)~~ TO A LAW ENFORCEMENT OFFICER ABOUT THE GENERAL
2 PHYSICAL CONDITION OF A PATIENT BEING TREATED IN A HEALTH
3 CARE FACILITY, IF THE PATIENT WAS INJURED ON A PUBLIC
4 ROADWAY, OR WAS INJURED BY THE POSSIBLE CRIMINAL ACT OF
5 ANOTHER; OR

6 ~~(4)~~(5) pursuant to compulsory process in accordance
7 with [sections 11 and 12].

8 NEW SECTION. Section 11. When health care information
9 available by compulsory process. Health care information may
10 not be disclosed by a health care provider pursuant to
11 compulsory legal process or discovery in any judicial,
12 legislative, or administrative proceeding unless:

13 (1) the patient has consented in writing to the
14 release of the health care information in response to
15 compulsory process or a discovery request;

16 (2) the patient has waived the right to claim
17 confidentiality for the health care information sought;

18 (3) the patient is a party to the proceeding and has
19 placed his physical or mental condition in issue;

20 (4) the patient's physical or mental condition is
21 relevant to the execution or witnessing of a will OR OTHER
22 DOCUMENT;

23 (5) the physical or mental condition of a deceased
24 patient is placed in issue by any person claiming or
25 defending through or as a beneficiary of the patient;

(6) a patient's health care information is to be used in the patient's commitment proceeding;

(7) the health care information is for use in any law enforcement proceeding or investigation in which a health care provider is the subject or a party, except that health care information so obtained may not be used in any proceeding against the patient unless the matter relates to payment for his health care or unless authorized under subsection (9);

(8) the health care information is relevant to a proceeding brought under [sections 23 through 25]; or

(9) a court has determined that particular health care information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the patient's privacy interest.

NEW SECTION. Section 12. Method of compulsory process. (1) Unless the court for good cause shown determines that the notification should be waived or modified, if health care information is sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding or investigation under subsection (9) of [section 11], the person seeking discovery or compulsory process shall mail a notice by first-class mail to the patient or the patient's attorney of record of the compulsory process

or discovery request at least 10 days before presenting the certificate required under subsection (2) to the health care provider.

(2) Service of compulsory process or discovery requests upon a health care provider must be accompanied by a written certification, signed by the person seeking to obtain health care information or his authorized representative, identifying at least one subsection of [section 11] under which compulsory process or discovery is being sought. The certification must also state, in the case of information sought under subsection (2), (4), or (5) of [section 11] or in a civil proceeding under subsection (9) of [section 11], that the requirements of subsection (1) for notice have been met. A person may sign the certification only if the person reasonably believes that the subsection of [section 11] identified in the certification provides an appropriate basis for the use of discovery or compulsory process. Unless otherwise ordered by the court, the health care provider shall maintain a copy of the process and the written certification as a permanent part of the patient's health care information.

(3) Production of health care information under [section 11] and this section does not in itself constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure.

NEW SECTION. Section 13. Requirements and procedures for patient's examination and copying. (1) Upon receipt of a written request from a patient to examine or copy all or part of his recorded health care information, a health care provider, as promptly as required under the circumstances but no later than 10 days after receiving the request, shall:

(a) make the information available to the patient for examination during regular business hours and OR provide a copy, if requested, to the patient;

(b) inform the patient if the information does not exist or cannot be found;

(c) if the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) if the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than 21 days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) deny the request in whole or in part under [section 14] and inform the patient.

(2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, he is not required to create a new record or reformulate an existing record to make the information available in the requested form. The health care provider may charge a reasonable fee, not to exceed the health care provider's actual cost, for providing the health care information and is not required to permit examination or copying until the fee is paid.

NEW SECTION. Section 14. Denial of examination and copying. (1) A health care provider may deny access to health care information by a patient if the health care provider reasonably concludes that:

(a) knowledge of the health care information would be injurious to the health of the patient;

(b) knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate;

(c) knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;

(d) the health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes; or

(E) THE HEALTH CARE PROVIDER OBTAINED THE INFORMATION FROM A PERSON OTHER THAN THE PATIENT; OR

~~(e)~~(F) access to the health care information is otherwise prohibited by law.

(2) EXCEPT AS PROVIDED IN [SECTION 19], A HEALTH CARE PROVIDER MAY DENY ACCESS TO HEALTH CARE INFORMATION BY A PATIENT WHO IS A MINOR IF:

(A) THE PATIENT IS COMMITTED TO A MENTAL HEALTH FACILITY; OR

(B) THE PATIENT'S PARENTS OR GUARDIAN HAVE NOT AUTHORIZED THE HEALTH CARE PROVIDER TO DISCLOSE THE PATIENT'S HEALTH CARE INFORMATION.

~~(2)~~(3) If a health care provider denies a request for examination and copying under this section, the provider, to the extent possible, shall segregate health care information for which access has been denied under subsection (1) from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

~~(3)~~(4) If a health care provider denies a patient's request for examination and copying, in whole or in part, under subsection (1)(a) or (1)(c), he shall permit examination and copying of the record by another health care

~~provider,---selected---by---the---patient,---who---is---licensed, certified, or otherwise authorized under the laws of this state---to treat WHO IS PROVIDING HEALTH CARE SERVICES TO the patient for the same condition as the health care provider denying the request. The health care provider denying the request shall inform the patient of the patient's right to select another health care provider under this subsection.~~

NEW SECTION. Section 15. Request for correction or amendment. (1) For purposes of accuracy or completeness, a patient may request in writing that a health care provider correct or amend its record of the patient's health care information to which he has access under [section 13].

(2) As promptly as required under the circumstances but no later than 10 days after receiving a request from a patient to correct or amend its record of the patient's health care information, the health care provider shall:

(a) make the requested correction or amendment and inform the patient of the action and of the patient's right to have the correction or amendment sent to previous recipients of the health care information in question;

(b) inform the patient if the record no longer exists or cannot be found;

(c) if the health care provider does not maintain the record, inform the patient and provide him with the name and address, if known, of the person who maintains the record;

(d) if the record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing the earliest date, not later than 21 days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) inform the patient in writing of the provider's refusal to correct or amend the record as requested, the reason for the refusal, and the patient's right to add a statement of disagreement and to have that statement sent to previous recipients of the disputed health care information.

NEW SECTION. Section 16. Procedure for adding correction, amendment, or statement of disagreement. (1) In making a correction or amendment, the health care provider shall:

(a) add the amending information as a part of the health record; and

(b) mark the challenged entries as corrected or amended entries and indicate the place in the record where the corrected or amended information is located, in a manner practicable under the circumstances.

(2) If the health care provider maintaining the record of the patient's health care information refuses to make the patient's proposed correction or amendment, the provider shall:

(a) permit the patient to file as a part of the record of his health care information a concise statement of the correction or amendment requested and the reasons therefor; and

(b) mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the record where the statement of disagreement is located, in a manner practicable under the circumstances.

NEW SECTION. Section 17. Dissemination of corrected or amended information or statement of disagreement. (1) A health care provider, upon request of a patient, shall take reasonable steps to provide copies of corrected or amended information or of a statement of disagreement to all persons designated by the patient and identified in the health care information as having examined or received copies of the information sought to be corrected or amended.

(2) A health care provider may charge the patient a reasonable fee, not exceeding the provider's actual cost, for distributing corrected or amended information or the statement of disagreement, unless the provider's error necessitated the correction or amendment.

NEW SECTION. Section 18. Content and dissemination of notice. (1) A health care provider who provides health care at a health care facility that the provider operates and who

1 maintains a record of a patient's health care information
2 shall create a notice of information practices, in
3 substantially the following form:

4 NOTICE

5 "We keep a record of the health care services we
6 provide for you. You may ask us to see and copy that record.
7 You may also ask us to correct that record. We will not
8 disclose your record to others unless you direct us to do so
9 or unless the law authorizes or compels us to do so. You may
10 see your record or get more information about it at
11 _____."

12 (2) The health care provider shall post a copy of the
13 notice of information practices in a conspicuous place in
14 the health care facility and upon request provide patients
15 or prospective patients with a copy of the notice.

16 NEW SECTION. Section 19. Health care representatives.

17 (1) A person authorized to consent to health care for
18 another may exercise the rights of that person under
19 [sections 1 through 25] to the extent necessary to
20 effectuate the terms or purposes of the grant of authority.
21 If the patient is a minor and is authorized under 41-1-402
22 to consent to health care without parental consent, only the
23 minor may exclusively exercise the rights of a patient under
24 [sections 1 through 25] as to information pertaining to
25 health care to which the minor lawfully consented.

1 (2) A person authorized to act for a patient shall act
2 in good faith to represent the best interests of the
3 patient.

4 NEW SECTION. Section 20. Representative of deceased
5 patient. A personal representative of a deceased patient may
6 exercise all of the deceased patient's rights under
7 [sections 1 through 25]. If there is no personal
8 representative or upon discharge of the personal
9 representative, a deceased patient's rights under [sections
10 1 through 25] may be exercised by persons who are authorized
11 by law to act for him.

12 NEW SECTION. Section 21. Duty to adopt security
13 safeguards. A health care provider shall effect reasonable
14 safeguards for the security of all health care information
15 it maintains.

16 NEW SECTION. Section 22. Retention of record. A
17 health care provider shall maintain a record of existing
18 health care information for at least 1 year following
19 receipt of an authorization to disclose that health care
20 information under [section 6] and during the pendency of a
21 request for examination and copying under [section 13] or a
22 request for correction or amendment under [section 15].

23 NEW SECTION. Section 23. Criminal penalty. ~~{i}--A~~
24 ~~person--who--purposely--discloses-health-care-information-in~~
25 ~~violation-of-{sections-1-through-25}-and-who-knew-or--should~~

1 ~~have--known--that--disclosure--is--prohibited--is--guilty--of--a~~
 2 ~~misdemeanor--and--upon--conviction--is--punishable--by--a--fine--not~~
 3 ~~exceeding--\$10,000--or--imprisonment--for--a--period--not--exceeding~~
 4 ~~1--year--or--both--~~

5 †2†(1) A person who by means of bribery, theft, or
 6 misrepresentation of identity, purpose of use, or
 7 entitlement to the information examines or obtains, in
 8 violation of [sections 1 through 25], health care
 9 information maintained by a health care provider is guilty
 10 of a misdemeanor and upon conviction is punishable by a fine
 11 not exceeding \$10,000 or imprisonment for a period not
 12 exceeding 1 year, or both.

13 †3†(2) A person who, knowing that a certification
 14 under [section 12(2)] or a disclosure authorization under
 15 [sections 6 and 7] is false, purposely presents the
 16 certification or disclosure authorization to a health care
 17 provider is guilty of a misdemeanor and upon conviction is
 18 punishable by a fine not exceeding \$10,000 or imprisonment
 19 for a period not exceeding 1 year, or both.

20 NEW SECTION. Section 24. Civil enforcement. The
 21 attorney general or appropriate county attorney may maintain
 22 a civil action to enforce [sections 1 through 25]. The court
 23 may order any relief authorized by [section 25].

24 NEW SECTION. Section 25. Civil remedies. (1) A person
 25 aggrieved by a violation of [sections 1 through 25] may

1 maintain an action for relief as provided in this section.

2 (2) The court may order the health care provider or
 3 other person to comply with [sections 1 through 25] and may
 4 order any other appropriate relief.

5 (3) A health care provider who relies in good faith
 6 upon a certification, pursuant to [section 12(2)], is not
 7 liable for disclosures made in reliance on that
 8 certification.

9 (4) NO DISCIPLINARY OR PUNITIVE ACTION MAY BE TAKEN
 10 AGAINST A HEALTH CARE PROVIDER OR HIS EMPLOYEE OR AGENT WHO
 11 BRINGS EVIDENCE OF A VIOLATION OF [SECTIONS 1 THROUGH 25] TO
 12 THE ATTENTION OF THE PATIENT OR AN APPROPRIATE AUTHORITY.

13 †4†(5) In an action by a patient alleging that health
 14 care information was improperly withheld under [sections 13
 15 and 14], the burden of proof is on the health care provider
 16 to establish that the information was properly withheld.

17 †5†(6) If the court determines that there is a
 18 violation of [sections 1 through 25], the aggrieved person
 19 is entitled to recover damages for pecuniary losses
 20 sustained as a result of the violation and, in addition, if
 21 the violation results from willful or grossly negligent
 22 conduct, the aggrieved person may recover not in excess of
 23 \$5,000, exclusive of any pecuniary loss.

24 †6†(7) If a plaintiff prevails, the court may assess
 25 reasonable attorney fees and all other expenses reasonably

1 incurred in the litigation.

2 ~~†7†~~(8) An action under [sections 1 through 25] is
3 barred unless the action is commenced within 3 years after
4 the cause of action accrues.

5 Section 26. Section 50-5-106, MCA, is amended to read:

6 "50-5-106. Records and reports required of health care
7 facilities -- confidentiality. Health care facilities shall
8 keep records and make reports as required by the department.
9 Before February 1 of each year, every licensed health care
10 facility shall submit an annual report for the preceding
11 calendar year to the department. The report shall be on
12 forms and contain information specified by the department.
13 Information received by the department or board through
14 reports, inspections, or provisions of parts 1 and 2 may not
15 be disclosed in a way which would identify patients. A
16 department employee who discloses information which would
17 identify a patient shall be dismissed from employment and
18 subject to the provisions of 45-7-401 and [section 23],
19 unless the disclosure was authorized in writing by the
20 patient, his guardian, or his agent in accordance with
21 [sections 1 through 25]. Information and statistical reports
22 from health care facilities which are considered necessary
23 by the department for health planning and resource
24 development activities will be made available to the public
25 and the health planning agencies within the state."

1 Section 27. Section 50-15-704, MCA, is amended to
2 read:

3 "50-15-704. Confidentiality. Information received by
4 the department pursuant to this part may not be released
5 unless:

- 6 (1) it is in statistical, nonidentifiable form;
- 7 (2) the provisions of ~~50-16-311~~ [sections 1 through
8 25] are satisfied;
- 9 (3) the release or transfer is to a person or
10 organization that is qualified to perform data processing or
11 data analysis and that has safeguards against unauthorized
12 disclosure of that information; or
- 13 (4) the release or transfer is to a central tumor
14 registry of another state and is of information concerning a
15 person who is residing in that state."

16 SECTION 28. SECTION 53-21-166, MCA, IS AMENDED TO
17 READ:

18 "53-21-166. Records to be confidential -- exceptions.
19 All information obtained and records prepared in the course
20 of providing any services under this part to individuals
21 under any provision of this part shall be confidential and
22 privileged matter. Such Except as provided in [sections 1
23 through 25], information and records may be disclosed only:

- 24 (1) in communications between qualified ~~professional~~
25 ~~persons~~ PROFESSIONALS in the provision of services or

1 appropriate referrals;

2 (2) when the recipient of services designates persons
3 to whom information or records may be released, provided
4 that if a recipient of services is a ward and his guardian
5 or conservator designates in writing persons to whom records
6 or information may be disclosed, such designation shall be
7 valid in lieu of the designation by the recipient; except
8 that nothing in this section shall be construed to compel a
9 physician, psychologist, social worker, nurse, attorney, or
10 other professional person to reveal information which has
11 been given to him in confidence by members of a patient's
12 family;

13 (3) to the extent necessary to make claims on behalf
14 of a recipient of aid, insurance, or medical assistance to
15 which he may be entitled;

16 (4) for research if the department has promulgated
17 rules for the conduct of research; such rules shall include
18 but not be limited to the requirement that all researchers
19 must sign an oath of confidentiality;

20 (5) to the courts as necessary to the administration
21 of justice;

22 (6) to persons authorized by an order of court, after
23 notice and opportunity for hearing to the person to whom the
24 record or information pertains and the custodian of the
25 record or information pursuant to the rules of civil

1 procedure;

2 (7) to members of the mental disabilities board of
3 visitors or their agents when necessary to perform their
4 functions as set out in 53-21-104."

5 Section 29. Section 53-24-306, MCA, is amended to
6 read:

7 "53-24-306. Records of chemically dependent persons,
8 intoxicated persons, and family members. (1) The
9 registration and other records of treatment facilities shall
10 remain confidential and are privileged to the patient.

11 (2) Notwithstanding subsection (1), the department may
12 make available in accordance with [sections 1 through 25]
13 information from patients' records for purposes of research
14 into the causes and treatment of chemical dependency.
15 Information under this subsection shall not be published in
16 a way that discloses patients' names or other identifying
17 information."

18 NEW SECTION. Section 30. Severability. If a part of
19 this act is invalid, all valid parts that are severable from
20 the invalid part remain in effect. If a part of this act is
21 invalid in one or more of its applications, the part remains
22 in effect in all valid applications that are severable from
23 the invalid applications.

24 NEW SECTION. Section 31. Repealer. Sections 50-16-301
25 through 50-16-305 and 50-16-311 through 50-16-314, MCA, are

1 repealed.

-End-